

BOARD OF SUPERVISORS

MINUTES

February 22, 2006

Supervisors in Attendance:

Mr. R. M. "Dickie" King, Jr.,
Chairman
Mr. Kelly Miller, Vice Chrm.
Mr. Edward B. Barber
Mrs. Renny Bush Humphrey
Mr. Arthur S. Warren

Mr. Lane B. Ramsey,
County Administrator

Staff in Attendance:

Colonel Carl R. Baker,
Police Department
Mr. George Braunstein,
Exec. Dir., Community
Services Board
Dr. Billy Cannaday, Jr.,
Supt., School Board
Ms. Marilyn Cole, Asst.
County Administrator
Mr. Roy Covington, Dir.,
Utilities
Ms. Mary Ann Curtin, Dir.,
Intergovtl. Relations
Mr. Jonathan Davis,
Real Estate Assessor
Mr. Wilson Davis, Dir.,
Economic Development
Ms. Rebecca Dickson, Dir.,
Budget and Management
Ms. Lisa Elko, CMC,
Clerk
Ms. Karla Gerner, Dir.,
Human Resource Mgmt.
Mr. Michael Golden, Dir.,
Parks and Recreation
Mr. Bradford S. Hammer,
Deputy Co. Admin.,
Human Services
Mr. John W. Harmon,
Right-of-Way Manager
Mr. Russell Harris, Mgr.
of Community Development
Services
Mr. Joseph A. Horbal,
Commissioner of Revenue
Mr. Donald Kappel, Dir.,
Public Affairs
Ms. Kathryn Kitchen, Asst.
Supt. of Schools for
Business and Finance
Mr. Louis Lassiter, Dir.,
Internal Audit
Ms. Mary Lou Lyle, Dir.,
Accounting
Chief Paul Mauger,
Fire and EMS Dept.
Mr. R. John McCracken,
Dir., Transportation
Mr. Richard M. McElfish,
Dir., Env. Engineering
Mr. Steven L. Micas,
County Attorney

Mr. Francis Pitaro, Dir.,
General Services
Mr. William Russell,
Interim Dir., Information
Systems Technology
Mr. James J. L. Stegmaier,
Deputy Co. Admin.,
Management Services
Mr. M. D. Stith, Jr.,
Deputy Co. Admin.,
Community Development
Mr. Thomas Taylor, Dir.
Block Grant Office
Mr. Kirk Turner, Dir.,
Planning

Mr. King called the regularly scheduled meeting to order at 3:14 p.m.

1. APPROVAL OF MINUTES FOR FEBRUARY 8, 2006

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board approved the minutes of February 8, 2006, as submitted.

Ayes: King, Barber, Humphrey, Miller and Warren.
Nays: None.

Ms. Elko stated staff has requested that Item 8.B., Acceptance of a Bid to Purchase Chesterfield County General Obligation Public Improvement Bonds, Series 2006A for Various Capital Improvement Projects, be heard at this time.

**8.B. ACCEPTANCE OF A BID TO PURCHASE CHESTERFIELD COUNTY
GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS, SERIES
2006A FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS**

Ms. Dickson stated \$66 million in Chesterfield County General Obligation Public Improvement Bonds were sold earlier today, and the proceeds from the sale will finance various capital improvement projects approved in the November 2004 bond referendum. She further stated, as part of the bond sale, the county's AAA bond rating was reaffirmed by all three bond rating agencies, indicating that the county is still one of less than 30 jurisdictions in the nation to be rated AAA by all three bond rating agencies. She stated a total of 12 bids were received, and the lowest responsible bidder was CitiGroup Global Markets, Incorporated at a true interest cost of 4.01 percent. She further stated staff is requesting that the Board accept the bid of CitiGroup to purchase the bonds so the necessary agreements can be executed.

On motion of Mr. Miller, seconded by Mr. King, the Board approved the acceptance of a proposal from CitiGroup Global Markets, Incorporated to purchase \$66,000,000 principal amount of Chesterfield County General Obligation Public Improvement Bonds, Series 2006A, with a true interest cost of 4.01 percent.

Ayes: King, Barber, Humphrey, Miller and Warren.
Nays: None.

In response to Mr. Miller's questions, Ms. Dickson stated if the county had been rated AA rather than AAA on the bond sale, the county would pay \$400,000 more over the life of the \$66 million bonds.

Mr. Miller stated the county's AAA bond rating is reflective of good management practices.

Discussion ensued relative to the criteria used by bond rating agencies when rating localities and the number of localities in the state with AAA bond ratings.

Mr. Miller noted the county's AAA bond rating helps keep the county's tax rates down.

Mr. Ramsey noted that debt issued prior to the county receiving the AAA bond rating has been refinanced as lower interest rates became available; therefore, all of the county's outstanding debt today is subject to the AAA bond rating. He stated millions of dollars have been saved as a result of the county's bond rating.

Mr. King exercised his prerogative as Chairman, to move Board Committee Reports to be heard at this time.

3. BOARD COMMITTEE REPORTS

Mr. King called forward Mr. Art Heinz, President of the Chesterfield Chamber of Commerce, who has requested to make a presentation to the county.

Mr. Heinz stated over the past six years, many improvements have occurred because of the wonderful working relationship between the Chesterfield Chamber and the county. He further stated business people support the business decision made by Mr. Ramsey to return to the county by private jet when a crisis situation occurred. He stated managing a billion dollar government entity is not easy. He further stated, during the past few days, Chamber of Commerce member Roger Habeck has worked with many businesses to raise the money to cover the cost of the trip. He presented Mr. Stegmaier with a check, in the amount of \$18,000, which can be used for transportation reimbursement or in any way the county deems necessary.

A standing ovation followed the presentation of the check.

Mr. Heinz recognized members of the Chamber of Commerce who participated in the contribution, and approximately 30 people in the audience stood in support. He stated many challenges will continue in the county, but the Chamber is committed to making sure the county remains open for business and a First Choice community. He further stated the Chamber is confident that the administration and the Board of Supervisors are doing a great job of running the county. He thanked Chairman King and the other Board members who stood behind Mr. Ramsey.

Mr. King stated both he and Mr. Ramsey are overwhelmed by the Chamber's presentation. He further stated because of concerns expressed recently about the county's processes for making purchases when dealing with unusual and unexpected events, he

is requesting that Mr. Ramsey put together a team consisting of the County Attorney, Deputy County Administrator for Management Services, Budget Director, Director of Internal Audit and any other staff that he feels is necessary to review the county's process and procedures for purchases such as this. He further requested that the team evaluate the policies, adequate balance, the need for responsiveness to unpredictable situations or events, and the need for proper controls. He stated the county needs to satisfy its citizens that every dollar of public funds is spent for legitimate purposes. He requested that the team identify any improvements to the county's policies in this area that might be needed and report their findings to the Board within 30 days.

Mr. King then commended the Chesterfield Technical Center's Horticultural Class for winning a blue ribbon at The Maymont Garden Show. He stated the Tech Center's culinary students will be participating in the Culinary Bake Off state competition on April 29th, and thanked Mark and Carol Kimmel for providing excellent culinary instruction to county students.

Mr. King thanked the Chamber of Commerce for doing what is right for business. He stated he accompanied the pilots to pick up Mr. Ramsey and return him to Chesterfield at no additional expense to the county. He further stated he is one of the people who suggested that Mr. Ramsey return to the county on the day of the event. He stated he makes business decisions daily on the spur of a moment. He further stated, given the circumstances and the events that took place, he stands behind Mr. Ramsey's doing what he believes was the right thing for the right reason. He stated he had no knowledge of the exact cost of the flight. He further stated, from the very beginning, he told The Observer that he made the trip to accompany Mr. Ramsey back to the county. He stated he will not apologize for asking the right questions and taking the trip because it was of no benefit to him personally. He further stated only county business was discussed during the flight, and he believes Mr. Ramsey made the right decision at the right time for the right reason given the circumstances, and he will stand by that decision to do what he and Mr. Ramsey felt was right. He commended Mr. Ramsey for his ability to run a fine county.

Mr. Miller stated he was not privy to the flight decisions, and it is problematic whether the right decision was made, but he has known Mr. Ramsey and been around county government for a long time. He further stated Mr. Ramsey is one of the most honorable people he has ever been involved with, indicating that the county would not have received its numerous awards and its AAA bond rating without Mr. Ramsey's excellent management practices. He thanked the business community for coming forward and stated he cannot understand the malicious criticisms that he has heard. He expressed appreciation to Mr. Ramsey for his leadership and stated he feel a disservice has been done to him. He stated he cannot justify whether the cost of the flight was reasonable, but he knows Mr. Ramsey did it for the right reasons for the benefit of the county.

Mrs. Humphrey expressed concerns relative to the unspeakable e-mails that she has received in the past couple of days.

She thanked the business community for stepping forward, not only in this matter, but others as well. She stated the businessmen and women have distinguished themselves as people of great character. She further stated one of the jewels of the county has been its fiscal management for many years, with Mr. Ramsey serving at the helm as County Administrator. She stated the county's fiscal stability has been paramount to the county's past, present and future. She thanked the business community for discussing the matter with the Chairman and Vice Chairman and finding out exactly what the county went through during the time of crisis. She stated, although she cannot justify the cost of the flight, she supports Mr. Ramsey's decision to interrupt his vacation and leave his family to return to the county and serve the residents.

Members of the audience, staff and Board members gave Mr. Ramsey a standing ovation in support of his decision.

2. COUNTY ADMINISTRATOR'S COMMENTS

Mr. Ramsey stated he is overwhelmed by the Chamber of Commerce's presentation. He apologized for any trouble that any action on his part has brought to the Board.

O LEGISLATIVE UPDATE

Ms. Curtin provided an update on General Assembly activities. She stated the majority of the county's legislative requests have either passed or will be close to being passed by the end of this week. She further stated both the House and Senate released their respective budgets last weekend, and staff is still analyzing the budgets to determine their impacts on the county. She stated the transportation proposals from both the House and Senate are embedded in the budgets, and she hopes to have additional information to share with the Board regarding the impact of the transportation proposals on the county very soon.

Discussion ensued relative to the status of legislative requests regarding group homes, hunting regulations, VRS benefit provisions, eminent domain, and public safety retirement.

Ms. Humphrey requested that Ms. Curtin provide her with details relative to proposed budgetary funding to address the impact of the BRAC realignment on communities in the state.

Mr. Miller excused himself from the meeting.

4. REQUESTS TO POSTPONE ACTION, ADDITIONS, OR CHANGES IN THE ORDER OF PRESENTATION

On motion of Mr. Warren, seconded by Mr. Barber, the Board added Item 9., Request of Mr. James Daniels to Address the Board Under Hearings of Citizens on Unscheduled Matters to Discuss an Application for Historic Designation for Bermuda Hundred; and adopted the Agenda, as amended.

Ayes: King, Barber, Humphrey and Miller.

Nays: None.

Absent: Miller.

Mr. Miller returned to the meeting.

5. RESOLUTIONS AND SPECIAL RECOGNITIONS

O RECOGNIZING MR. WILLIAM RUSSELL, INFORMATION SYSTEMS TECHNOLOGY DEPARTMENT, UPON HIS RETIREMENT

Mr. Stegmaier introduced Mr. William Russell, who was present to receive the resolution.

On motion of the Board, the following resolution was adopted:

WHEREAS, Mr. William Russell will retire from the Chesterfield County Information Systems Technology Department on March 1, 2006 after providing 29 years of quality service to the citizens of Chesterfield County; and

WHEREAS, Mr. Russell has faithfully served the county in the capacity of operations manager, assistant director and served as acting director for the Information Systems Technology Department; and

WHEREAS, Mr. Russell was appointed to serve on the Technology Advisory Committee for Henrico County to support the Y2K conversion and other technology initiatives; and

WHEREAS, Mr. Russell graduated from Chesterfield County's School of Quality in August 2001; and

WHEREAS, Mr. Russell was a permanent member of the Technology Steering Committee and the department Quality Council where he served as champion for the Promote A Quality Culture goal team; and

WHEREAS, Mr. Russell served as a mentor for the Communities in Schools Program to encourage children to grow and mature to have a positive perspective on life; and

WHEREAS, Mr. Russell's dedication and support of employees serving in the armed forces to maintain a national defense is of the highest level; and

WHEREAS, Mr. Russell was a founding member of Chesterfield University and was appointed dean of the School of Applied Business and Technology for four years; and

WHEREAS, Mr. Russell has served on various state committees to support the use of technology towards business initiatives; and

WHEREAS, Mr. Russell is being recognized for providing outstanding leadership in planning, organizing and directing a workforce of unusual importance and complexity, and for his long and distinguished career service; and

WHEREAS, Mr. Russell's knowledge, guidance, ethical behavior and untiring support and encouragement have helped to make the Information Systems Technology Department a recognized and respected resource; and

WHEREAS, Mr. Russell has earned the admiration and respect of his staff and colleagues at Chesterfield County for his dedication, enthusiasm, professionalism, sense of humor and hard work, and his invaluable technical expertise; and

WHEREAS, Mr. Russell has made many lasting contributions to his field of technology and management and to the IST staff who will be forever grateful for his leadership, guidance and most importantly, his friendship; and

WHEREAS, Chesterfield County and the Board of Supervisors will miss Mr. Russell's diligent service.

NOW, THEREFORE, BE IT RESOLVED that the Chesterfield County Board of Supervisors, this 22nd day of February 2006, publicly recognizes Mr. William Russell, and extends on behalf of its members and the citizens of Chesterfield County, appreciation for his service to the county, congratulations upon his retirement, and best wishes for a long and happy retirement.

AND, BE IT FURTHER RESOLVED that a copy of this resolution be presented to Mr. Russell, and that this resolution be permanently recorded among the papers of this Board of Supervisors of Chesterfield County.

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

Mr. King presented the executed resolution and a Jefferson Cup to Mr. Russell, expressed appreciation for his service to the county, and congratulated him on his retirement.

Mr. Russell expressed appreciation to the Board for the recognition and also to Mr. Ramsey, Mr. Hammer, Mr. Stegmaier and former Deputy County Administrator Elmer Hodge for their support. He stated it has been a privilege to serve as a member of the technology team in a county that is second to none.

6. WORK SESSIONS

6.A. RETIREE HEALTH BENEFIT CHANGES

Mr. Scott Zaremba, Assistant Director of Human Resources, provided details of proposed changes in retiree healthcare benefits. He stated the changes will not impact the benefits of active employees or current retirees. He further stated the changes are being proposed because of dramatically increasing healthcare costs and new accounting regulations that require localities to report on liability for future retiree benefits. He provided details of the current retiree healthcare benefits and compared them with retiree benefits in neighboring localities. He reviewed the anticipated increase in retiree healthcare costs for the next 10 years. He provided details relating to Government and Accounting Standards Board (GASB) projected liability for future retiree healthcare and annual required contributions. He reviewed annual required contribution versus current expense. He then provided the proposed timeline and methodology for implementation of the retiree plan changes. He reviewed issues surrounding the proposed changes.

Mr. Ramsey stated the county's AAA bond rating has just been revalidated. He further stated the rating agencies asked what the county was doing to address retiree health care, indicating that next year they will more thoroughly evaluate the county's plan to address the issue.

Mr. Zaremba continued to review issues surrounding the changes and also reviewed objectives of the proposed changes. He provided details of proposed retiree benefits for employees who are grandfathered and those who are not grandfathered under the proposed changes. He stated employees hired on or after July 1, 2006 who retire at age 55 with 15 or more years of service can purchase retiree health benefits at the county's group rate, but will not receive a county contribution. He discussed the value of the benefit of purchasing retiree health benefits at the county's group rate.

In response to Mr. Miller's questions, Mr. Zaremba stated nothing is proposed to change for the health benefits of active employees.

Mr. Miller stated he would like to see some sort of escrow account set up for new employees to voluntarily make contributions towards their retiree healthcare premiums. He further stated the county has a moral obligation to honor commitments to current retirees, indicating that those who are already retired can rest assured that their healthcare benefits will not be impacted. He expressed concerns relative to recruiting of teachers, firefighters, police personnel and others, and stated the county needs to be looking at areas to help with attracting and keeping employees.

Mr. Ramsey stated staff is meeting with employees to discuss the changes in more detail and will evaluate the process if changes come about as a result of those meetings. He further stated Dr. Cannady is also meeting with school employees on the issue.

Mr. King thanked Mr. Zaremba for the informative presentation.

**6.B. THE COUNTY ADMINISTRATOR'S FY2007 PROPOSED BUDGET
INCLUDING PRESENTATIONS FROM THE POLICE AND FIRE
DEPARTMENTS**

O POLICE DEPARTMENT PRESENTATION

Colonel Baker provided an overview of the Police Department's proposed FY2007 and FY2008 biennial budget. He reviewed challenges and trends that are impacting the Police Department.

Discussion ensued relative to the criminal activity attributed to illegal immigrants.

Mr. Miller expressed concerns that the federal government's inability or unwillingness to take action when illegal aliens are arrested is impacting criminal activity in the county.

Colonel Baker stated additional Hispanic officers are needed to deal with the county's growing Hispanic population. He reviewed accomplishments of the department during 2005 and provided statistics since 1999 for various key measures. He stated the FY2007 proposed budget represents a 9.8 percent increase over the FY2006 adopted budget, and the proposed

FY2008 budget represents a 5.6 percent increase. He stated the numbers of calls and assignments for 2005 decreased, as has the Incident Based Reporting (IBR) Group A Incident Rate per 100,000 population and the total number of IBR Group A Incidents. He expressed concerns relative to increased armed robberies and street robberies. He reviewed data from 2000 through 2005 relative to IBR Group A Clearance Rate and provided details of Chesterfield's clearance rates versus national clearance rates. He then reviewed data relative to average response times and expressed concerns relative to unacceptable increased average response times for Priority 1 and Priority 2 calls. He reviewed cost per capita for law enforcement services and number of volunteer hours. He stated additional funding in the amount of \$2,456,400 is being requested for FY2007 for 23 sworn officers. He further stated Chesterfield had a ratio of 1.61 police officers per 1,000 citizens in 2005. He stated increased officer strength is needed for beat restructure; minimum staffing issues; and better response times. He provided details of projected annual population growth by Chesterfield communities and projected residential growth from 2005 through 2011. He reviewed additional funding requests and new positions proposed for FY2007 and FY2008.

There was brief discussion relative to making the county's federal legislative delegation aware of the department's budgetary needs.

Colonel Baker next presented an overview of the Animal Control Division's FY2007 and FY2008 biennial budget. He stated Animal Control's FY2007 proposed budget represents a 13 percent increase over the FY2006 adopted budget, and the proposed FY2008 budget represents a 2 percent increase. He reviewed data relative to calls for service and animals impounded versus adopted. He reviewed FY2007 and FY2008 additional funding requests, indicating that the new positions will address understaffing issues at the Animal Shelter.

Mr. King commended Colonel Baker for the extraordinary performance provided by the county's public safety personnel on a limited budget. He stated, although the county is 300 officers short compared with the national average, our clearance rate is one of the top in the nation.

In response to Mr. King's question, Colonel Baker stated it is not uncommon to find 15 to 20 or more Hispanic males living in a two-bedroom apartment, indicating that he feels the county's Hispanic community is underreported.

Mr. King commended Colonel Baker on the department's use of volunteers.

O FIRE AND EMERGENCY MEDICAL SERVICES PRESENTATION

Chief Mauger came forward to present an overview of Fire and Emergency Medical Services' FY2007 and FY2008 biennial budget. He first highlighted Fire and EMS successes during FY2005. He then provided details of cost per capita and countywide fire/EMS incidents.

In response to Mr. King's question, Chief Mauger stated approximately 75 percent of the countywide fire/EMS incidents were EMS related. He reviewed response times; property loss; structure fires per 1,000 population; and fire deaths per 100,000 population. He then reviewed critical issues, including instructor pay; staff vehicles age and mileage; apparatus age; insufficient personal protective equipment; and additional staff support. He stated Manchester Volunteer Rescue Squad is requesting \$40,500 for a quick response vehicle. He provided an overview of the department's focus for FY2007. He thanked the Board for its continued support.

Mr. King commended Chief Mauger on the efficiency of the department and coming closer to reaching the national benchmark on response times. He complimented the department on working with and understanding the needs of the volunteers.

Mr. Miller expressed concerns that individuals are trained by the county and then leave to go elsewhere. He inquired whether the department has considered a deferred compensation program, whereby funds could be placed in escrow, and later presented to employees as an incentive for completing a certain number of years service.

Chief Mauger stated he is open to any ideas for attracting and retaining employees.

Discussion ensued relative to the funding necessary to replace personal protective equipment, fire apparatuses and staff vehicles.

7. DEFERRED ITEMS

There were no deferred items at this time.

8. NEW BUSINESS

8.A. AUTHORIZATION TO ADVERTISE TAX RATES FOR FY2007-FY2008 BIENNIAL FINANCIAL PLAN AND SET PUBLIC HEARINGS

Ms. Dickson stated the Board is being requested to advertise tax rates for the calendar year 2006, the proposed FY2007-FY2008 Biennial Financial Plan, proposed FY2007-FY2012 Capital Improvement Program, Proposed FY2007 Community Development Block Grant Program and other ordinance changes. Ms. Dickson further explained that the real estate tax to be advertised is \$1.06. She stated advertising a \$1.06 real estate tax rate will give the Board flexibility to adopt something less if they choose to in April.

On motion of Mr. Barber, seconded by Mrs. Humphrey, the Board authorized the advertisement of tax rates, the proposed FY2007-FY2008 Biennial Financial Plan, the proposed FY2007-FY2012 Capital Improvement Program, the proposed FY2007 Community Development Block Grant Program, and other ordinance changes.

And, further, the Board set the date of March 22, 2006 beginning at 7:00 p.m. for public hearings to consider these items.

Ayes: King, Barber, Humphrey, Miller and Warren.
Nays: None.

Mr. King recognized Dr. Cannaday and acknowledged the importance of the tax rate for Chesterfield schools.

8.C. APPOINTMENT

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board suspended its rules at this time to allow for simultaneous nomination/appointment of a member to serve on the Parks and Recreation Advisory Commission.

Ayes: King, Barber, Humphrey, Miller and Warren.
Nays: None.

O PARKS AND RECREATION ADVISORY COMMISSION

On motion of Mr. King, seconded by Mr. Miller, the Board simultaneously nominated/appointed Mr. Jim Beck, representing the Bermuda District, to serve on the Parks and Recreation Advisory Commission, whose term is effective immediately and expires December 31, 2007.

Ayes: King, Barber, Humphrey, Miller and Warren.
Nays: None.

8.D. CONSENT ITEMS

8.D.1. ADOPTION OF RESOLUTION RECOGNIZING MARCH 2006, AS "PURCHASING MONTH" IN CHESTERFIELD COUNTY

On motion of Mr. Miller, seconded by Mr. Barber, the Board adopted the following resolution:

WHEREAS, the purchasing and materials management profession has a significant role in the quality, efficiency and profitability of business and government throughout the United States; and

WHEREAS, the purchasing and materials management profession works for private and public, and profit and nonprofit organizations; and

WHEREAS, in addition to the purchase of goods and services, the purchasing and materials management profession engages in or has direct responsibility for functions such as executing, implementing and administering contracts; developing forecast and procurement strategies; supervising and/or monitoring the flow and storage of materials; and developing working relations with suppliers and with other departments within the organization; and

WHEREAS, the purchasing and materials management profession has tremendous influence on the economic conditions in the United States, with an accumulative purchasing power running into the billions of dollars; and

WHEREAS, purchasing or procurement operations range from departments of one person to several thousand; and

WHEREAS, governmental purchasing and other associations around the world are sponsoring activities and special events to further educate and inform the general public on the role of purchasing within business, industry and government.

NOW, THEREFORE, BE IT RESOLVED that the Chesterfield County Board of Supervisors hereby recognizes the month of March 2006, as "Purchasing Month" in Chesterfield County and encourages all citizens to join in commemorating this observance.

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

8.D.2. APPROPRIATION OF JUVENILE ACCOUNTABILITY BLOCK GRANT FUNDS FROM THE DEPARTMENT OF CRIMINAL JUSTICE SERVICES

On motion of Mr. Miller, seconded by Mr. Barber, the Board authorized Human Services Administration to receive \$15,307 in Juvenile Accountability Block Grant (JABG) funds and \$22,960 in state general funds from the Department of Criminal Justice Services and authorized an increase in appropriations by \$38,267. (It is noted the required \$4,251 local match will be absorbed in the department's current operating budget.)

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

8.D.3. STATE ROAD ACCEPTANCE

On motion of Mr. Miller, seconded by Mr. Barber, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: **Addition**

Basis for Change: **Addition, New subdivision street**

Statutory Reference: **§33.1-229**

Project: **Montclair at Southbend, Section 2 and a portion of Section 1**

● **Elkington Drive, State Route Number: 5918**

From: Greyshire Dr., (Rt. 5571)

To: Elkington Ct., (Rt. 5919), a distance of: 0.11 miles.

Right-of-way record was filed on 4/30/2005 with the Office Of Clerk To Circuit Court in Pb. 143, Pg. 41,
with a width of 50 feet

● **Elkington Court, State Route Number: 5919**

From: Elkington Dr., (Rt. 5918)

To: Cul-de-sac, a distance of: 0.05 miles.

Right-of-way record was filed on 4/30/2005 with the Office Of Clerk To Circuit Court in Pb. 143, Pg. 41,
with a width of 50 feet

● **Elkington Drive, State Route Number: 5918**

From: Elkington Ct., (Rt. 5919)

To: Cul-de-sac, a distance of: 0.05 miles.

Right-of-way record was filed on 4/30/2005 with the Office Of Clerk To Circuit Court in Pb. 143, Pg. 41,
with a width of 50 feet

● **Greyshire Drive, State Route Number: 5571**

From: Mountshire Ln., (Rt. 5706)

To: Elkington Dr., (Rt. 5918), a distance of: 0.11 miles.

Right-of-way record was filed on 4/30/2005 with the Office Of Clerk To Circuit Court in Pb. 143, Pg. 41,
with a width of 50 feet

● **Greyshire Drive, State Route Number: 5571**

From: Elkington Dr., (Rt. 5918)

To: Cul-de-sac, a distance of: 0.09 miles.

Right-of-way record was filed on 4/30/2005 with the Office Of Clerk To Circuit Court in Pb. 143, Pg. 41,
with a width of 50 feet

And, further, the Board adopted the following resolution:

WHEREAS, the street described below is shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the street described below to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: Addition

Basis for Change: **Addition, New subdivision street**

Statutory Reference: **§33.1-229**

Project: **Perdue Springs Drive**

● **Perdue Springs Drive, State Route Number: 5907**

From: Jefferson Davis Hwy., (Rt. 1/301)

To: 0.11 mi. W of Jefferson Davis Hwy., (Rt. 1/301), a distance of: 0.11 miles.

Right-of-way record was filed on 2/13/1997 with the Office Of Clerk To Circuit Court in Db. 3000, Pg. 629,

with a width of 80 feet

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: Addition

Basis for Change: Addition, New subdivision street

Statutory Reference: §33.1-229

Project: Beulah Oaks, Section 1

● **Stately Oak Road, State Route Number: 5926**

From: Hopkins Rd., (Rt. 637)

To: Beulah Oaks Ln., (Rt. 5927), a distance of: 0.26 miles.

Right-of-way record was filed on 12/16/2003 with the Office Of Clerk To Circuit Court in Pb. 139, Pg. 91,

with a width of 44 feet

● **Beulah Oaks Lane, State Route Number: 5927**

From: Stately Oak Rd., (Rt. 5926)

To: Cul-de-sac, a distance of: 0.06 miles.

Right-of-way record was filed on 12/16/2003 with the Office Of Clerk To Circuit Court in Pb. 139, Pg. 91,

with a width of 53 feet

● **Beulah Oaks Lane, State Route Number: 5927**

From: Stately Oak Dr., (Rt. 5926)

To: Cul-de-sac, a distance of: 0.04 miles.

Right-of-way record was filed on 12/16/2003 with the Office Of Clerk To Circuit Court in Pb. 139, Pg. 91,

with a width of 53 feet

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: **Addition**

Basis for Change: **Addition, New subdivision street**

Statutory Reference: **§33.1-229**

Project: **Newbys Mill**

● **Newbys Mill Drive, State Route Number: 5942**

From: Newbys Bridge Rd., (Rt. 649)

To: Newbys Mill Tr., (Rt. 5943), a distance of: 0.04 miles.

Right-of-way record was filed on 8/9/2004 with the Office Of Clerk To Circuit Court in Pb. 146, Pg. 61,
with a width of 50 feet

● **Newbys Mill Terrace, State Route Number: 5943**

From: Newbys Mill Dr., (Rt. 5942)

To: Cul-de-sac, a distance of: 0.06 miles.

Right-of-way record was filed on 8/9/2004 with the Office Of Clerk To Circuit Court in Pb. 146, Pg. 61,
with a width of 40 feet

● **Newbys Mill Court, State Route Number: 5944**

From: Newbys Mill Dr., (Rt. 5942)

To: Cul-de-sac, a distance of: 0.04 miles.

Right-of-way record was filed on 8/9/2004 with the Office Of Clerk To Circuit Court in Pb. 146, Pg. 61,
with a width of 40 feet

● **Newbys Mill Drive, State Route Number: 5942**

From: Newbys Mill Tr., (Rt. 5943)

To: Shepherds Mill Dr., (Rt. 5895), a distance of: 0.16 miles.

Right-of-way record was filed on 8/9/2004 with the Office Of Clerk To Circuit Court in Pb. 146, Pg. 61,
with a width of 40 feet

● **Shepherds Mill Drive, State Route Number: 5895**

From: Newbys Mill Dr., (Rt. 5942)

To: Cul-de-sac, a distance of: 0.05 miles.

Right-of-way record was filed on 8/9/2004 with the Office Of Clerk To Circuit Court in Pb. 146, Pg. 61,
with a width of 40 feet

● **Shepherds Mill Drive, State Route Number: 5895**

From: Newbys Mill Dr., (Rt. 5942)

To: 0.04 mi. N of Newbys Mill Dr., (Rt 5942), a distance of: 0.04 miles.

Right-of-way record was filed on 8/9/2004 with the Office Of Clerk To Circuit Court in Pb. 146, Pg. 61,
with a width of 40 feet

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision

Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: **Addition**

Basis for Change: **Addition, New subdivision street**

Statutory Reference: **§33.1-229**

Project: **Rutherford Village at Charter Colony, Section 1**

● **Rolling Spring Drive, State Route Number: 5946**

From: Charter Colony Pkwy., (Rt. 950)

To: Pamplin Dr., (Rt. 5947), a distance of: 0.05 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 60 ft

● **Rolling Spring Drive, State Route Number: 5946**

From: Pamplin Dr., (Rt. 5947)

To: Clemons Dr., (Rt. 5950), a distance of: 0.08 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

● **Rolling Spring Drive, State Route Number: 5946**

From: Clemons Dr., (Rt. 5950)

To: Temporary EOM, a distance of: 0.01 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

● **Clemons Drive, State Route Number: 5950**

From: Rolling Spring Dr., (Rt. 5946)

To: Temporary EOM, a distance of: 0.01 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

● **Pamplin Drive, State Route Number: 5947**

From: Rolling Spring Dr., (Rt. 5946)

To: Denby Wy., (Rt. 5948), a distance of: 0.04 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

● **Denby Way, State Route Number: 5948**

From: Pamplin Dr., (Rt. 5947)

To: Cul-de-sac, a distance of: 0.02 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

● **Denby Way, State Route Number: 5948**

From: Pamplin Dr., (Rt. 5947)

To: Denby Tr., (Rt. 5949), a distance of: 0.14 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

● **Denby Terrace, State Route Number: 5949**

From: Denby Wy., (Rt. 5948)

To: Cul-de-sac, a distance of: 0.08 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

● **Denby Terrace, State Route Number: 5949**

From: Denby Wy., (Rt. 5948)

To: Cul-de-sac, a distance of: 0.03 miles.

Right-of-way record was filed on 10/24/2003 with the Office Of Clerk To Circuit Court in Pb. 138 Pg. 41,
with a width of 44 feet

Ayes: King, Barber, Humphrey, Miller and Warren.
Nays: None.

8.D.4. ACCEPTANCE OF PARCELS OF LAND

8.D.4.a. FOR TASCON HARVEST GLEN FROM TASCON – HARVEST GLEN, L.L.C.

On motion of Mr. Miller, seconded by Mr. Barber, the Board accepted the conveyance of seven parcels of land containing a total of 4.545 acres from Tascon – Harvest, L.L.C., and authorized the County Administrator to execute the deed. (It is noted copies of the plats are filed with the papers of this Board.)

Ayes: King, Barber, Humphrey, Miller and Warren.
Nays: None.

8.D.4.b. FOR HARROWGATE PARK

8.D.4.b.1. FROM TED LEE SWEARINGEN AND FRED J. SWEARINGEN, JR.

On motion of Mr. Miller, seconded by Mr. Barber, the Board accepted the conveyance of two parcels of land containing a total of 0.589 acres for Harrowgate Park from Ted Lee

Swearingen and Fred J. Swearingen, Jr., and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

8.D.4.b.2. FROM BRANDER'S BRIDGE, LLC, A VIRGINIA LIMITED LIABILITY COMPANY

On motion of Mr. Miller, seconded by Mr. Barber, the Board accepted the conveyance of a parcel of land containing 5.832 acres for Harrowgate Park from Brander's Bridge, LLC, a Virginia limited liability company, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

8.D.5. REQUESTS FOR PERMISSION

8.D.5.a. FROM EUGENE A. AND PAMALA A. CERISANO FOR AN EXISTING FENCE TO ENCROACH WITHIN A SIXTEEN-FOOT SEWER EASEMENT AND A VARIABLE WIDTH SEWER AND DRAINAGE EASEMENT ACROSS LOT 30, QUALLA FARMS, SECTION F

On motion of Mr. Miller, seconded by Mr. Barber, the Board approved a request from Eugene A. Cerisano and Pamala A. Cerisano for permission for an existing fence to encroach within a 16-foot sewer easement and a variable width sewer and drainage easement across Lot 30, Qualla Farms, Section F, subject to the execution of a license agreement. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

8.D.5.b. FROM JOHN D. AND JANE K. BROWN FOR A PROPOSED FENCE TO ENCROACH WITHIN AN EIGHT-FOOT EASEMENT ACROSS LOT 3, RUTHERFORD VILLAGE AT CHARTER COLONY

On motion of Mr. Miller, seconded by Mr. Barber, the Board approved a request from John D. Brown and Jane K. Brown for permission for a proposed fence to encroach within an 8-foot easement across Lot 3, Rutherford Village at Charter Colony, subject to the execution of a license agreement. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

8.D.6. TRANSFER OF DISTRICT IMPROVEMENT FUNDS

8.D.6.a. FROM THE BERMUDA, CLOVER HILL, DALE, MATOACA AND MIDLOTHIAN DISTRICT IMPROVEMENT FUNDS TO THE SCHOOL BOARD FOR POST PROM CELEBRATIONS

On motion of Mr. Miller, seconded by Mr. Barber, the Board transferred \$1,800 from the Bermuda District Improvement

Fund, \$2,300 from the Clover Hill District Improvement Fund, \$800 from the Dale District Improvement Fund, \$2,300 from the Matoaca District Improvement Fund, and \$2,300 from the Midlothian District Improvement Fund (total of \$9,500) to the Chesterfield County School Board for drug- and alcohol-free post-prom celebrations subject to the conditions described in the papers of this Board.

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

**8.D.6.b. FROM THE BERMUDA, DALE AND MATOACA DISTRICT
IMPROVEMENT FUNDS TO THE SCHOOL BOARD TO PURCHASE
SOCCER EQUIPMENT FOR L. C. BIRD HIGH SCHOOL**

On motion of Mr. Miller, seconded by Mr. Barber, the Board transferred \$1,333 each from the Bermuda and Matoaca District Improvement Funds and \$1,334 from the Dale District Improvement Fund (total of \$4,000) to the Chesterfield County School Board to purchase soccer equipment for L. C. Bird High School.

Ayes: King, Barber, Humphrey, Miller and Warren.

Nays: None.

8.D.7. AMENDMENT TO BOARD MINUTES OF DECEMBER 14, 2005

On motion of Mr. Miller, seconded by Mr. Barber, the Board amended the minutes of December 14, 2005 to modify the ordinance revisions relating to the prohibition of tow truck parking as follows:

FROM:

"Mr. Barber called for a vote on the motion of Mrs. Humphrey, seconded by Mr. King for the Board to adopt the following ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY
OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING
AND RE-ENACTING SECTION 19-65, 19-66, 19-102, 19-103,
19-107.1, 19-108, 19-124, 19-301 AND 19-510
RELATING TO HOME OCCUPATIONS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) That Sections 19-65, 19-66, 19-102, 19-103, 19-107.1, 19-108, 19-124, 19-301 and 19-510 of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted to read as follows:

Section 19-65. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the R-88 District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

(e) Home occupation, provided that:

- (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,
- (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
- (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,
- (4) No commodity is stored or sold on the premises except for light inventory,
- (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads. A vehicle used for towing shall not be permitted to have a vehicle in tow or on its flatbed while it is parked on the premises, and
- (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.
- (f) Parking and storage of any commercial truck, commercial vehicle or public service vehicle provided that no such vehicle shall exceed 10,000 pounds or have more than two axles. The restriction in this subsection shall not apply to (i) trucks or vehicles on the premises while loading or unloading; or (ii) trucks or vehicles parked on a farm where the parking is incidental to the farming use being conducted on the property.

Section 19-66. Accessory Uses, Buildings and Structures.

The following accessory uses, buildings and structures shall be permitted in the R-88 District:

o o o

- (b) Tennis courts and similar recreational facilities.
- (c) Swimming pools and adjoining deck areas; provided that no swimming pool wall shall be located within

six feet of an adjacent lot or parcel nor in a required front or corner side yard.

- (d) Temporary buildings or trailers devoted to purposes incidental to construction activities taking place on the premises; provided that such buildings or trailers shall be removed upon completion or abandonment of the work.
- (e) Signs.
- (f) Other accessory uses, buildings and structures not otherwise prohibited, customarily accessory and incidental to any permitted use.

o o o

Section 19-102. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the R-TH District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

- (e) Home occupation, provided that:
 - (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,
 - (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
 - (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,
 - (4) No commodity is stored or sold on the premises except for light inventory,
 - (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads. A vehicle used for towing shall not be permitted to have a vehicle in tow or on its flatbed while it is parked on the premises, and

- (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.
- (f) Parking and storage of any commercial truck, commercial vehicle or public service vehicle provided that no such vehicle shall exceed 10,000 pounds or have more than two axles. The restriction in this subsection shall not apply to (i) trucks or vehicles on the premises while loading or unloading; or (ii) trucks or vehicles parked on a farm where the parking is incidental to the farming use being conducted on the property.

o o o

Section 19-103. Accessory Uses, Buildings and Structures.

The following accessory uses, buildings and structures shall be permitted in the R-TH District:

o o o

- (d) Temporary buildings or trailers devoted to purposes incidental to construction activities taking place on the premises; provided that such buildings or trailers shall be removed upon completion or abandonment of such work.
- (e) Buildings and structures devoted to maintenance and groundskeeping purposes and equipment storage.
- (f) Signs.
- (g) Other accessory uses, buildings and structures not otherwise prohibited, customarily accessory and incidental to any permitted use.

o o o

Section 19-107.1. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the R-MF District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

- (d) Home occupation, provided that:
 - (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,
 - (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
 - (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,

- (4) No commodity is stored or sold on the premises except for light inventory,
- (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads. A vehicle used for towing shall not be permitted to have a vehicle in tow or on its flatbed while it is parked on the premises, and
- (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.

(e) Parking and storage of any commercial truck, commercial vehicle or public service vehicle provided that no such vehicle shall exceed 10,000 pounds or have more than two axles. The restriction in this subsection shall not apply to (i) trucks or vehicles on the premises while loading or unloading; or (ii) trucks or vehicles parked on a farm where the parking is incidental to the farming use being conducted on the property.

o o o

Section 19-108. Accessory Uses, Buildings and Structures.

The following accessory uses, buildings and structures shall be permitted in the R-MF District:

o o o

- (b) Recreational facilities as required for the project and that primarily serve the surrounding residential community.
- (c) Management office and maintenance buildings for the project.
- (d) Temporary buildings or trailers devoted to purposes incidental to construction activities taking place on the premises; provided that such buildings or trailers shall be removed upon completion or abandonment of such work.
- (e) Signs.
- (f) Other accessory uses, buildings and structures not otherwise prohibited, customarily accessory and incidental to any permitted use.

o o o

Section 19-124. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the A District subject to compliance with the following conditions and other

applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

(e) Home occupation, provided that:

- (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,
- (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
- (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,
- (4) No commodity is stored or sold on the premises except for light inventory,
- (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads. A vehicle used for towing shall not be permitted to have a vehicle in tow or on its flatbed while it is parked on the premises, and
- (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.

o o o

Section 19-301. Definitions.

o o o

Home occupation: Any occupation, profession, enterprise or activity conducted which is incidental and secondary to the use of the premises as a dwelling, including but not limited to the home office of a member of a recognized or licensed profession, such as an attorney, physician, dentist, certified massage therapist as defined in County Code § 15-91, musician, artist, real estate salesperson or broker, or engineer.

Permitted home occupations shall not include animal hospitals or kennels, beauty parlors, barbershops, dance studios, motor vehicle repair, motor vehicle painting or body work, motor vehicle detailing, nursing homes, convalescent homes, rest homes, private clubs, tourist homes, trash collection or similar establishments offering services to the general public.

o o o

Section 19-510. Restrictions and Limitations--Agricultural, Residential, Residential Townhouse, Multi-family Residential, Manufactured Homes.

- (a) Parking and storing recreational equipment in R, R-TH, MH and R-MF Districts:
 - (1) In all MH-2, MH-3, and R Districts, only two items of recreational equipment may be parked on a zoning lot for each dwelling unit thereon, outside of a totally enclosed building. Further, all recreational equipment shall be parked or stored in a rear yard, except for loading or unloading, and shall be set back at least ten feet from the rear lot lines and five feet from the side lot lines. No trailer or vehicle shall have its wheels removed except for repair purposes.
 - (2) No recreational equipment shall be used for living or business purposes or connected to utility services except for maintenance purposes.
 - (3) In R-TH, and R-MF Districts, parking and storing recreational equipment shall be prohibited unless a common storage area(s) is (are) provided for the parking. Parking spaces for recreational equipment and/or vehicles shall be in addition to that required for parking private vehicles. The storage area(s) shall be effectively screened from view.
- (b) Parking areas for five or more vehicles on lots in A, R, MH and R-TH districts, which are not used for residential purposes, shall conform to the parking requirements as though the property were located in an O, C or I District.

(2) That this ordinance shall become effective immediately upon adoption.

Ayes: King, Humphrey, and Warren.

Nays: Barber and Miller."

TO:

"Mr. Barber called for a vote on the motion of Mrs. Humphrey, seconded by Mr. King for the Board to adopt the following ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY
OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING
AND RE-ENACTING SECTION 19-65, 19-66, 19-102, 19-103,
19-107.1, 19-108, 19-124, 19-301 AND 19-510
RELATING TO HOME OCCUPATIONS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) That Sections 19-65, 19-66, 19-102, 19-103, 19-107.1, 19-108, 19-124, 19-301 and 19-510 of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted to read as follows:

Section 19-65. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the R-88 District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

(e) Home occupation, provided that:

- (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,
- (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
- (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,
- (4) No commodity is stored or sold on the premises except for light inventory,
- (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads, and
- (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.

(f) Parking and storage of any commercial truck, commercial vehicle or public service vehicle provided that no such vehicle shall exceed 10,000 pounds, have more than two axles, or be a commercial vehicle which tows or hauls disabled, wrecked or junked vehicles. The restrictions in this subsection shall not apply to (i) trucks or

vehicles on the premises while loading or unloading; or (ii) trucks or vehicles parked on a farm where the parking is incidental to the farming use being conducted on the property.

Section 19-66. Accessory Uses, Buildings and Structures.

The following accessory uses, buildings and structures shall be permitted in the R-88 District:

o o o

- (b) Tennis courts and similar recreational facilities.
- (c) Swimming pools and adjoining deck areas; provided that no swimming pool wall shall be located within six feet of an adjacent lot or parcel nor in a required front or corner side yard.
- (d) Temporary buildings or trailers devoted to purposes incidental to construction activities taking place on the premises; provided that such buildings or trailers shall be removed upon completion or abandonment of the work.
- (e) Signs.
- (f) Other accessory uses, buildings and structures not otherwise prohibited, customarily accessory and incidental to any permitted use.

o o o

Section 19-102. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the R-TH District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

o o o

- (e) Home occupation, provided that:
 - (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,
 - (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
 - (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,
 - (4) No commodity is stored or sold on the premises except for light inventory,
 - (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory

structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads, and

- (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.
- (f) Parking and storage of any commercial truck, commercial vehicle or public service vehicle provided that no such vehicle shall exceed 10,000 pounds, have more than two axles, or be a commercial vehicle which tows or hauls disabled, wrecked or junked vehicles. The restrictions in this subsection shall not apply to (i) trucks or vehicles on the premises while loading or unloading; or (ii) trucks or vehicles parked on a farm where the parking is incidental to the farming use being conducted on the property.

o o o

Section 19-103. Accessory Uses, Buildings and Structures.

The following accessory uses, buildings and structures shall be permitted in the R-TH District:

o o o

- (d) Temporary buildings or trailers devoted to purposes incidental to construction activities taking place on the premises; provided that such buildings or trailers shall be removed upon completion or abandonment of such work.
- (e) Buildings and structures devoted to maintenance and groundskeeping purposes and equipment storage.
- (f) Signs.
- (g) Other accessory uses, buildings and structures not otherwise prohibited, customarily accessory and incidental to any permitted use.

o o o

Section 19-107.1. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the R-MF District subject to compliance with the following conditions and other applicable standards of this chapter. If these restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

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- (d) Home occupation, provided that:
 - (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,

- (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
- (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,
- (4) No commodity is stored or sold on the premises except for light inventory,
- (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads, and
- (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.
- (e) Parking and storage of any commercial truck, commercial vehicle or public service vehicle provided that no such vehicle shall exceed 10,000 pounds, have more than two axles, or be a commercial vehicle which tows or hauls disabled, wrecked or junked vehicles. The restrictions in this subsection shall not apply to (i) trucks or vehicles on the premises while loading or unloading; or (ii) trucks or vehicles parked on a farm where the parking is incidental to the farming use being conducted on the property.

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Section 19-108. Accessory Uses, Buildings and Structures.

The following accessory uses, buildings and structures shall be permitted in the R-MF District:

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- (b) Recreational facilities as required for the project and that primarily serve the surrounding residential community.
- (c) Management office and maintenance buildings for the project.

- (d) Temporary buildings or trailers devoted to purposes incidental to construction activities taking place on the premises; provided that such buildings or trailers shall be removed upon completion or abandonment of such work.
- (e) Signs.
- (f) Other accessory uses, buildings and structures not otherwise prohibited, customarily accessory and incidental to any permitted use.

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Section 19-124. Uses Permitted with Certain Restrictions.

The following uses shall be permitted in the A District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to section 19-13:

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- (e) Home occupation, provided that:
 - (1) No employees shall be permitted to work on the premises other than family member employees that live on the premises,
 - (2) The use is within a dwelling, accessory structure or both provided that the total area for the use does not exceed 25% of the floor of the dwelling or 250 square feet, whichever is greater,
 - (3) The use is clearly incidental and secondary to the use of the property for dwelling purposes and no external alterations, which would cause the premises to differ from its residential character by the use of colors, materials, lighting, or construction, are permitted,
 - (4) No commodity is stored or sold on the premises except for light inventory,
 - (5) No more than one vehicle and one single axle trailer not exceeding 13 feet in length and 3,200 pounds used in conjunction with the home occupation may be parked on the premises. No equipment shall be stored outside the dwelling or accessory structure that would indicate that a business is being conducted on site except for equipment stored on the vehicle or trailer used in conjunction with the business. The vehicle and equipment for a home occupation shall be parked on the premises where the home occupation is conducted, but a trailer must be parked, except for loading or unloading, either in the rear yard or so that its view is screened from adjacent properties or public roads, and
 - (6) No assembly or group instruction shall be permitted with a home occupation. Individual instruction on a one to one basis is permitted. Only two clients may be on the property at any one time.

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Section 19-301. Definitions.

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Home occupation: Any occupation, profession, enterprise or activity conducted which is incidental and secondary to the use of the premises as a dwelling, including but not limited to the home office of a member of a recognized or licensed profession, such as an attorney, physician, dentist, certified massage therapist as defined in County Code § 15-91, musician, artist, real estate salesperson or broker, or engineer.

Permitted home occupations shall not include animal hospitals or kennels, beauty parlors, barbershops, dance studios, motor vehicle repair, motor vehicle painting or body work, motor vehicle detailing, nursing homes, convalescent homes, rest homes, private clubs, tourist homes, trash collection or similar establishments offering services to the general public.

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Section 19-510. Restrictions and Limitations--Agricultural, Residential, Residential Townhouse, Multi-family Residential, Manufactured Homes.

- (a) Parking and storing recreational equipment in R, R-TH, MH and R-MF Districts:
 - (1) In all MH-2, MH-3, and R Districts, only two items of recreational equipment may be parked on a zoning lot for each dwelling unit thereon, outside of a totally enclosed building. Further, all recreational equipment shall be parked or stored in a rear yard, except for loading or unloading, and shall be set back at least ten feet from the rear lot lines and five feet from the side lot lines. No trailer or vehicle shall have its wheels removed except for repair purposes.
 - (4) No recreational equipment shall be used for living or business purposes or connected to utility services except for maintenance purposes.
 - (5) In R-TH, and R-MF Districts, parking and storing recreational equipment shall be prohibited unless a common storage area(s) is (are) provided for the parking. Parking spaces for recreational equipment and/or vehicles shall be in addition to that required for parking private vehicles. The storage area(s) shall be effectively screened from view.
 - (b) Parking areas for five or more vehicles on lots in A, R, MH and R-TH districts, which are not used for residential purposes, shall conform to the parking requirements as though the property were located in an O, C or I District.
- (2) That this ordinance shall become effective immediately upon adoption.

Ayes: King, Humphrey, and Warren.
Nays: Barber and Miller."

Ayes: King, Miller, Barber, Humphrey and Warren.
Nays: None.

**8.D.8. DESIGNATION OF RIGHT OF WAY AND VIRGINIA DEPARTMENT
OF TRANSPORTATION SLOPE AND DRAINAGE EASEMENTS FOR
COUGAR TRAIL**

On motion of Mr. Miller, seconded by Mr. Barber, the Board designated right of way and Virginia Department of Transportation slope and drainage easements for Cougar Trail, and authorized the County Administrator to execute the Declaration. (It is noted copies of the plats are filed with the papers of this Board.)

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

9 HEARINGS OF CITIZENS ON UNSCHEDULED MATTERS OR CLAIMS

**O MR. JAMES DANIELS TO ADDRESS THE BOARD TO DISCUSS AN
APPLICATION FOR HISTORIC DESIGNATION FOR BERMUDA HUNDRED**

Mr. James Daniels stated Bermuda Hundred is the most important site in Chesterfield County history and provided many interesting historical facts about the site. He stated now is the time to recognize Bermuda Hundred as a historical site with the 2007 Celebration coming up. He further stated, when the Historical Society filed an application in 1995 for historical designation of Bermuda Hundred, there was no opposition until the corporate headquarters of Philip Morris received notice of the designation. He stated, at that time, the district had to be contiguous and certain properties could not be removed from the designation. He further stated the rules have changed, and a district has now been created that will not adversely affect any of the Bermuda Hundred property owners. He stated a portion of the property included in the district is the Brown and Williamson property donated to the county. He requested that the county assist the Historical Society in moving forward to gain historical designation of Bermuda Hundred by expressing its willingness to include the county property in the historic designation. He stated the approval process is a timely issue because of the upcoming 2007 Celebration.

In response to Mr. Miller's question, Mr. Daniels stated the designation is purely honorary.

Mr. Ramsey stated staff can support Mr. Daniel's request. He further stated he believes the earlier issue was a result of fear of the industries that the historic designation might hinder the county's process if they expanded their facilities. He stated if the Board is in agreement, he would ask Mr. Hammer to work with the Historical Society to move the issue forward.

Mr. King stated he fully supports Bermuda Hundred being placed on the national historic designation registry.

In response to Mr. Miller's question, Mr. Daniels stated the Historical Society is seeking state and national historic designation of Bermuda Hundred, but is not requesting that the site be designated as a historic landmark through the

county's Historic Preservation Committee because of the restrictions that would be placed upon the property.

Mrs. Humphrey stated she supports Mr. Daniels' request.

10. REPORTS

10.A. REPORT ON STATUS OF GENERAL FUND BALANCE, RESERVE FOR FUTURE CAPITAL PROJECTS, DISTRICT IMPROVEMENT FUNDS AND LEASE PURCHASES

10.B. REPORT ON DEVELOPER WATER AND SEWER CONTRACTS

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board accepted the following reports: a Report on the Status of General Fund Balance, Reserve for Future Capital Projects, District Improvement Funds and Lease Purchases; and a Report on Developer Water and Sewer Contracts.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

11. DINNER

On motion of Mr. King, seconded by Mr. Miller, the Board recessed to the Administration Building, Room 502, for dinner.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Reconvening:

12. INVOCATION

Reverend Johnnie Fleming, Pastor of Second Baptist Church, gave the invocation.

13. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Mr. Stith led the Pledge of Allegiance to the flag of the United States of America.

Mr. Stith then introduced members of the Young Adult Choir from Second Baptist Church.

The choir performed two musical selections.

Mr. Stith recognized members of the Black History Month Committee who were present at the meeting.

14. RESOLUTIONS AND SPECIAL RECOGNITIONS

O RECOGNIZING MR. TIMOTHY R. MICK FOR HIS CONTRIBUTIONS TO THE CHESTERFIELD COUNTY PARKS AND RECREATION ADVISORY COMMISSION

Mr. Golden introduced Mr. Timothy Mick who was present to receive the resolution.

On motion of the Board, the following resolution was adopted:

WHEREAS, the Chesterfield County Parks and Recreation Advisory Commission was established in 1993 by the Board of Supervisors for the purpose of assessing the recreation needs of the county, advising the Board of Supervisors and county staff, and making specific recommendations on the most equitable use of facilities; and

WHEREAS, Mr. Timothy R. Mick was appointed as a member of the Commission representing the Bermuda Magisterial District in January 1996, and since that time has served the citizens of Chesterfield with distinction; and

WHEREAS, Mr. Mick served as Chairman of the Budget Committee, the Background Checks Committee and the Capital Projects Committee and continuously worked to resolve issues and bring forth policy recommendations later adopted by the Commission; and

WHEREAS, the Commission provided guidance and direction on development of a Parks and Recreation Master Plan, set standards for capital improvements for new facilities, and developed policies for the safety and protection of youth sports participants; and

WHEREAS, the Commission set schedules for sports season dates and recommended assignments of facilities to cosponsored leagues; and

WHEREAS, the Commission strongly supported the passage of the 2004 Bond Referendum and the resulting acquisition and development of new parks and recreation facilities throughout the county; and

WHEREAS, the Commission developed and have created a Recreational Volunteers Recognition Program, with the first awards ceremonies held in the spring of 2004; and

WHEREAS, Mr. Mick has contributed greatly to the Chesterfield community through his own volunteerism, serving in the capacity of President of the Chesterfield Quarterback League, State Youth Director for the Bass Federation, serving in a leadership position with the Harrowgate Athletic Association, and initializing and developing the Marguerite Christian Athletic Association.

NOW, THEREFORE, BE IT RESOLVED that the Chesterfield County Board of Supervisors, this 22nd day of February 2006, publicly recognizes and commends Mr. Timothy R. Mick for his dedicated and outstanding service to the Parks and Recreation Advisory Commission and to the citizens of Chesterfield County.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mr. King presented the executed resolution to Mr. Mick, accompanied by members of his family and the Parks and Recreation Commission, and expressed appreciation for his dedicated service on the Parks and Recreation Advisory Commission.

Parks and Recreation Advisory Commission members Will Shewmake and Frank McDavid each expressed appreciation for

the leadership and wisdom provided by Mr. Mick as a member of the Parks and Recreation Advisory Commission.

Mr. Mick's family members stated they are very proud of him.

Mr. Barber stated he would like to move Case 06SN0191 to the end of the zoning agenda, if the Chairman concurs.

Mr. King stated he concurs with moving 06SN0191 to the end of the zoning agenda.

**15. REQUESTS FOR MANUFACTURED HOME PERMITS AND REZONING
PLACED ON THE CONSENT AGENDA TO BE HEARD IN THE
FOLLOWING ORDER: - WITHDRAWALS/DEFERRALS - CASES WHERE
THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO
OPPOSITION - CASES WHERE THE APPLICANT DOES NOT ACCEPT
THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION
WILL BE HEARD AT SECTION 17**

05SN0185 (Amended)

In Midlothian Magisterial District, COMMERCIAL LAND DEVELOPMENT requests rezoning and amendment of zoning district map from Agricultural (A) to General Industrial (I-2) with Conditional Use to permit commercial uses and Conditional Use Planned Development to allow exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial/flex uses. This request lies on 36.4 acres fronting approximately 1,100 feet on the south line of Midlothian Turnpike, also fronting in two (2) places for a total of approximately 730 feet on the west line of Otterdale Road and located in the southwest quadrant of the intersection of these roads. Tax IDs 720-709-6011; 721-708-2383; and 721-709-2704 and 3240 (Sheet 5).

Mr. Turner stated Mr. Barber has requested a deferral of Case 05SN0185 until April 26, 2006.

Mr. Jim Theobald, representing the applicant, expressed appreciation to Mr. Barber for his willingness to defer the case until April 26, 2006.

Mr. Will Shewmake, representing one of the landowners, stated the deferral will be helpful.

Mr. King called for public comment.

No one came forward to speak to the deferral.

On motion of Mr. Barber, seconded by Mr. King, the Board deferred Case 05SN0185 until April 26, 2006.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

06SN0112

In Clover Hill Magisterial District, HARBOUR POINTE SHOPPING CENTER ASSOC. L.C. AND UKROP'S SUPERMARKETS, INC. request amendment to Conditional Use (Case 91SN0286) and amendment of zoning district map to increase square footage limitations for the shopping center. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor use. This request lies in a Community Business (C-3) District on 13.6 acres fronting approximately 680 feet on the east line of Harbour View Court approximately 400 feet on the west line of Bayside Lane and fronting approximately forty (40) feet on the north line of Hull Street Road. Tax IDs 727-673-7983, 728-673-0984 and 728-674-4411 (Sheet 15).

Mr. Turner presented a summary of Case 06SN0112 and stated the Planning Commission and staff recommended approval.

Ms. Ashley Harwell, representing the applicant, stated the recommendation is acceptable.

Mr. King called for public comment.

No one came forward to speak to the request.

On motion of Mr. Warren, seconded by Mr. Miller, the Board approved Case 06SN0112.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

06SN0151

In Bermuda Magisterial District, ROBERT SHERRILL AND FLOYD WASHABAUGH request rezoning and amendment of zoning district map from Agricultural (A) to Corporate Office (O-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 0.5 acre and is known as 561 East Hundred Road. Tax ID 817-651-8971 (Sheet 27).

Mr. Turner presented a summary of Case 06SN0151 and stated the Planning Commission and staff recommended approval and acceptance of the proffered conditions.

Mr. Robert Sherrill stated the recommendation is acceptable.

Mr. King called for public comment.

No one came forward to speak to the request.

On motion of Mr. King, seconded by Mr. Miller, the Board approved Case 06SN0151 and accepted the following proffered conditions:

1. In conjunction with any new development or redevelopment on the property, as determined by the Transportation Department, the owner/developer shall construct an additional lane of pavement along Route 10 for the

entire property frontage, and dedicate, free and unrestricted, to Chesterfield County any additional right-of-way (or easements) required for these improvements. (T)

2. Prior to any site plan approval or within sixty (60) days of approval of this request, whichever occurs first, one-hundred (100) feet of right-of-way on the south side of Route 10, measured from the centerline of Route 10 adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
3. Direct vehicular access from the property to Route 10 shall be limited to one (1) entrance/exit. The exact location of this entrance/exit shall be approved by the Transportation Department. Prior to any site plan approval, an access easement, acceptable to the Transportation Department, shall be recorded from Route 10 to the adjacent property to the west. (T)

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

06SN0158

In Bermuda Magisterial District, D. K. WALTERS BUILDERS, INC. requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.5 dwellings per acre or less. This request lies on 2.0 acres fronting approximately 280 feet on the east line of Osborne Road approximately 430 feet south of Warfield Estates Drive. Tax ID 794-657-8017 (Sheet 26).

Mr. Turner presented a summary of Case 06SN0158 and stated the Planning Commission and staff recommended approval and acceptance of the proffered conditions.

Mr. Dean Hawkins, representing the applicant, stated the recommendation is acceptable.

Mr. King called for public comment.

No one came forward to speak to the request.

On motion of Mr. King, seconded by Mr. Miller, the Board approved Case 06SN0158 and accepted the following proffered conditions:

1. Except for timbering approved by the Virginia Division of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a Land Disturbance Permit has been obtained from the Department of Environmental Engineering and the approved devices have been installed. (EE)
2. In conjunction with recordation of the initial subdivision plat or within sixty (60) days from a written request by the Transportation Department,

whichever occurs first, thirty-five (35) feet of right-of-way on the south side of Osborne Road, measured from the centerline of that part of Osborne Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)

3. In conjunction with development of the initial subdivision section, the ditch on the south side of Osborne Road shall be relocated to provide an adequate shoulder, as determined by the Transportation Department, for the entire property frontage. The developer shall dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for this improvement. (T)
4. The public water and wastewater systems shall be used. (U)
5. The applicant, subdivider or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit for infrastructure improvements within the service district for the property:
 - a. \$15,600 per dwelling unit, if paid prior to July 1, 2006; or
 - b. The amount approved by the Board of Supervisors not to exceed \$15,600 per dwelling unit adjusted upward by any increase in the Marshall Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made after June 30, 2006.
 - c. Cash proffers shall be spent for the purposes proffered or as otherwise permitted by law. (B&M)
6. A maximum of three (3) residential lots shall be created within the area of this request. (P)

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

06SN0110

In Midlothian Magisterial District, JDC TRADD INC. requests rezoning and amendment of zoning district map from Agricultural (A) to Residential Townhouse (R-TH) with Conditional Use Planned Development to allow exceptions to Ordinance requirements. Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for low density residential use of 1.01 to 2.5 units per acre. This request lies on 22.8 acres fronting approximately 1,200 feet on the north line of the Norfolk Southern Railroad, west of Winterfield Road. Tax IDs 724-710-7957 and 725-710-3079 and 4141 (Sheet 5).

Mr. Robert Clay presented a summary of Case 06SN0110 and stated the Planning Commission recommended approval of the rezoning and the waiver to street connectivity requirements,

noting that the proposal has support from the community and presents an opportunity to improve a dangerous curve on Winterfield Road. He further stated staff recommended denial because the proposed zoning and land uses do not conform to the Midlothian Area Community Plan and the proposal fails to comply with the Thoroughfare Plan.

Mr. Will Shewmake, representing the applicant, stated he will forego a presentation because of the lengthiness of the agenda unless the Board desires one.

Mr. Barber stated if there are questions after public input, Mr. Shewmake can make the presentation if Board members desire.

Mr. Miller inquired why the applicant is objecting to the extension of Justice Road.

Mr. Shewmake stated a multi-million dollar bridge over Michaux Creek would be necessary to extend Justice Road as called for in the Thoroughfare Plan and would also destroy the proposed new urbanism project. He further stated the proposed roundabout on adjacent property will accomplish the same thing as extending Justice Road as well as keep through truck traffic off of Winterfield Road. He stated the applicant is protecting Winterfield Road and turning it into the road that the community desires. He noted there will be multiple accesses to the subject property off of Winterfield Road.

In response to Mr. Miller's questions, Mr. Shewmake stated the applicant has agreed to purchase property to realign Winterfield Road and slow the traffic to 25 miles per hour. He further stated, in response to the community's concerns, the applicant has agreed to construct sidewalks on both sides of the road through the entire development.

In response to Mr. King's question, Mr. McCracken stated staff recommends that Winterfield Road be extended to the west and connect with Justice Road to provide additional relief at the Route 288/Route 60 intersection.

Mr. Barber stated numerous accidents and fatalities have occurred on the severely misaligned portion of Winterfield Road. He further stated this project will relocate Winterfield Road, which has been an extremely high priority.

Mr. King called for public comment.

Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition, stated she supports the rezoning request, but does not support the connection to Justice Road, indicating that extending Justice Road with a bridge into an industrial park would adversely impact the character and perceived boundaries of the Village of Midlothian. She also encouraged the county to reconsider the applicant's offer to dedicate 8-plus acres for park use.

Mr. Peppy Jones stated he supports the proposed development, indicating that the applicant has done a lot to address the community's concerns.

Mr. Shane Doran, the developer, stated he is thrilled with the community support and is proud to invest in Chesterfield County.

There being no one else to speak to the request, the public hearing was closed.

Discussion ensued relative to the standards to be considered for waiver of street connectivity requirements.

Mr. Clay stated in staff's opinion, the proposal does not meet the standards for waiving street connectivity requirements.

Mr. Shewmake stated Winterfield Road relocated terminates north of the subject property. He further stated the relocation of Winterfield Road will be completed with the proposed development. He stated there will be numerous connections to Winterfield Road, as well as alleys and streets throughout the development. He further stated the applicant has offered to dedicate 8 acres for a park or provide an easement for a trail system.

In response to Mr. Miller's questions, Mr. Clay stated there would be no connection to Justice Road of Marylebane Lane, resulting in all of the traffic generated accessing Winterfield Road.

Mr. Shewmake stated the issue deals more with the Thoroughfare Plan than connectivity. He further stated the applicant has worked with the neighbors to gain their support without connectivity. He stated the proposal will address safety concerns on Winterfield Road, which has been a critical issue for many years.

Mrs. Humphrey stated she would rather see Winterfield Road realigned than Justice Road extended.

In response to Mrs. Humphrey's question, Mr. McCracken stated connectivity may address public safety issues, but result in cut-through traffic in the subdivisions. He further stated, without question, staff supports the relocation and straightening of Winterfield Road.

Mr. Shewmake noted that the proposed sidewalks will connect the development with neighboring development.

Mr. Barber made a motion, seconded by Mrs. Humphrey, for the Board to approve Case 06SN0110 and accept the following proffered conditions:

1. Master Plan. The Textual Statement dated January 5, 2006, and the Plan prepared by Balzer and Associates dated December 22, 2005, shall be considered the Master Plan ("the Plan"). (P)
2. Density. The maximum density of this development shall not exceed one hundred thirty-four (134) dwelling units. The tentative subdivision plan shall show a minimum of seven (7) lots that conform to the requirements for Single Family A, as described herein. A maximum of one hundred twenty-two (122) lots conforming to the

requirements for Single Family B lots shall be permitted. (P)

3. Foundations. All exposed portions of the foundation and exposed piers supporting front porches of each dwelling unit shall be faced with brick or stone veneer. (P)
4. Vinyl Siding. Vinyl siding shall be prohibited. (P)
5. Utilities. Public water and wastewater systems shall be used. (U)
6. Impacts on Capital Facilities. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, for infrastructure improvements within the service district for the property:
 - A. Prior to the issuance of a building permit for each dwelling unit, the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield the following amounts for infrastructure improvement within the service district for the property:
 - i. If payment is made prior to July 1, 2006, \$15,600.00 per dwelling unit. At time of payment \$15,600.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915.00 for roads, and \$404.00 for fire stations, and \$5,331.00 for schools; or
 - ii. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit pro-rated as set forth in Proffered Condition 6.a.i. above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
 - iii. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. (B&M)
7. Timbering. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
8. Burning Ban. The developer shall not use burning to clear or timber the subject properties. (F)
9. Right of Way Dedication. In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, sufficient right of way for Winterfield Road shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County as determined by the

Transportation Department. Provided, however, the total aggregate right of way width when combined with any dedicated right of way requested in Case No. 06SN0111 shall not exceed seventy (70) feet. (T)

10. Road Improvements. In conjunction with the initial development, the developer shall construct the following improvements. The exact location and design of these improvements shall be approved by the Transportation Department. The developer shall dedicate, free and unrestricted to Chesterfield County, any right-of-way (or easements) required for these improvements.
 - a. Winterfield Road Re-Aligned from the West Winterfield Road/Roderick Court intersection to the existing railroad crossing, as generally shown on the Plan,
 - b. A cul-de-sac on Winterfield Road at Winterfield Road Re-Aligned, if approved by VDOT and the Transportation Department. Unless otherwise approved by VDOT and the Transportation Department, the cul-de-sac shall be constructed on the property that is the subject of Case No. 06SN0111 and/or within the available right(s) of way,
 - c. Realignment of the existing West Winterfield Road/Winterfield Road intersection. In the event the developer is unable to acquire any right-of-way required for these improvements, the developer may request, in writing, that the County acquire such right(s)-of-way as a public road improvement. All costs associated with the acquisition of the right(s)-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the right(s)-of-way, the developer shall be relieved of the obligation to acquire the right(s)-of-way and shall provide the improvement within available right(s)-of-way, as determined by the Transportation Department,
 - d. Sidewalks having a minimum width of five (5) feet along both sides of Winterfield Road Re-Aligned from the southern property line to the West Winterfield Road/Winterfield Road intersection,
 - e. All roads that accommodate general traffic circulation through the development, as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System. (T)
11. Transportation Contribution. If the Applicant provides road improvements approved by the Transportation Department (the "Improvements"), other than those road improvements identified in Proffered Conditions 10a, b, c, and e, then the cash proffer payment(s) for the road component as set forth in Proffered Condition 6 shall be reduced so long as the cost to construct the Improvements is of equal or greater value than that which would have been collected through the payment(s) of the road component of the cash proffer. For purposes of this section, other road improvements not identified

in Proffered Conditions 10a, b, c, and e, include without limitation, improvements of the railroad crossing to the south of the subject property. Once the sum total amount of the cash proffer credit exceeds the cost of the Improvements, as determined by the Transportation Department, thereafter the Applicant shall commence paying the cash proffer as set forth in Proffered Condition 6 as adjusted for the credit. For the purposes of this proffer, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Provided, however, the developer also shall receive a reduction of the transportation cash proffer payment(s) for the improvements identified in Proffered Condition 10(d) to the extent those improvements are north of the parcel identified as Tax Parcel No. 725-711-4912, but in no event shall the reduction for the improvements set forth in Proffered Condition 10(d) exceed \$150,000.00. Before any Work is performed (which includes the improvements identified in Proffered Condition 10(d)), the developer shall receive prior written approval by the Transportation Department for any credit amount. (T and B&M)

12. Park Dedication. If requested by the Parks and Recreation Department, the developer in conjunction with the final subdivision plat or site plan approval, whichever occurs first, shall dedicate to the County, free and unrestricted and to and for the benefit of Chesterfield County, approximately eight (8) acres generally adjacent to Michaux Creek located on the western portion of the property. Provided, however, the developer shall be granted on the dedicated property an easement for any storm water/BMP facilities required for the development under the County Code. If the County does not make such a request, then the developer shall provide a trail along the length of Michaux Creek and Deep Creek from the northeastern to southwestern parcel boundaries. The exact length, width and treatment of the trail shall be approved by the Parks and Recreation Department. Provided, however, the Parks and Recreation Department shall not require any trail to be hardscaped. The trail shall be dedicated to the County or an easement granted to the County, or shall be owned and maintained by the Homeowners Association. (P&R and B&M)
13. Restrictive Covenants. The following restrictive covenants shall be recorded in conjunction with the recordation of any subdivision plat or prior to any site plan approval, which ever occurs first:
 - a. Design Guidelines - Any areas to be developed with a neotraditional design as defined in the Textual Statement shall be developed pursuant to and consistent with the Residential Design Guidelines prepared by Looney Ricks Kiss, and referred to as the "Design Guidelines Manual."
 - b. Architectural Board - The Architectural Board shall have exclusive jurisdiction over all original

construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors of the Homeowners Association (the "Board of Directors"), shall promulgate application and review procedures, all as part of the design and developmental standards. The Architectural Board shall incorporate the "Design Guidelines Manual," as described below in its review and approval of all applications submitted. Copies of the "Design Guidelines Manual" shall be available from the Architectural Board for review and use by owners, builders and/or developers. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to owners, builders, and developers only under extreme circumstances or hardships. Such circumstances or hardships shall be clearly demonstrated to be considered for amendment. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Board of Directors, and at least one (1) member shall be an architect licensed to practice in the State of Virginia. It is intended for the Architectural Board to maintain the character and integrity of the development.

- c. Signs - No signs shall be erected or maintained on any residential property by anyone including, but not limited to, the owner, a contractor, or a subcontractor, except as provided for in the "Development Guidelines Manual" or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Board of Directors. Realtor signs "For Sale" may be erected and are subject to review of the Declarant or Architectural Board.
- d. Condition of Ground -- It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on his lot. All improvements on each lot shall be kept in good repair, and where necessary, painted in a regular basis. No portion of the property shall be used or maintained as a dumping ground for

rubbish. Outdoor burning of leaves, trash, or other debris shall not be permitted. All trash, garbage, and other waste shall be kept in sanitary containers, which shall be surrounded by a wood or vinyl screen with such screening to be approved by the Architectural Board, or otherwise out of sight from the street.

- e. Snow and Ice Removal - Each property owner shall be required to perform snow and ice removal from sidewalks that are on/or adjacent to their property.
- f. Residential Use - All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the side and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building and approved by the Architectural Board.

The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

- g. Exterior Structure Completion - The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonable clean and uncluttered condition.
- h. Screened Areas - Each builder shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks, similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects much be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be in accordance with the "Design Guidelines Manual" and approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks

may be located outside of such screened area only if located underground.

- i. Vehicle Storage - No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.
- j. Temporary Structures - No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.
- k. Antennas - No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot, except as permitted by applicable law and except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Board of Directors for permission to install a television antenna and such permission shall not be unreasonably withheld.
- l. Further Subdivision - No lot shall be subdivided or its boundary lines changed. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create a modified building lot or a replatted lot suitable and fit as a building site including, but not limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.
- m. Animals - Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot

approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any residential lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet, which has been a nuisance or a danger.

- n. Motor Bikes All Terrain Vehicles - No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, pathways, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.
- o. Swimming Pools - No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.
- p. There shall be a minimum distance between dwellings of nine (9) feet.
- q. Rules and Regulations - The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Homeowners Association at least thirty (30) days prior to their effective date.
- r. Enforcement - The Board of Directors reserves the right to correct any situation, on any lot that violates the deed restrictions herein. The Board of Directors shall provide written notice to the owner in violation a minimum of thirty (30) days prior to any action to be taken by the Board of Directors. The Board of Directors shall have the right to correct the violation and collect reimbursement from the owner of the lot requiring action. If payment is not made or arranged for within thirty (30) days of the Board of Directors' request, the Board of Directors reserves the right to place a lien on said property or take any appropriate legal action necessary.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mr. Barber then made a motion, seconded by Mrs. Humphrey, for the Board to approve the request for waiver to street connectivity requirements in Case 06SN0110.

Mr. Barber stated he thinks it is important that the Board not waive street connectivity requirements frivolously, but

in this case, giving up the Justice Road extension for the relocation of Winterfield is a more than fair trade.

Mr. King called for a vote on the motion of Mr. Barber, seconded by Mrs. Humphrey, for the Board to approve the request for waiver to street connectivity requirements in Case 06SN0110.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

06SN0111

In Midlothian Magisterial District, JDC TRADD INC. requests rezoning and amendment of zoning district map from Agricultural (A) to Residential Townhouse (R-TH) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for low density residential use of 1.01 to 2.5 units per acre. This request lies on 2.2 acres known as 1400 Winterfield Road. Tax ID 725-710-6268 (Sheet 5).

Mr. Clay presented a summary of Case 06SN0111 and stated the Planning Commission recommended approval, noting that area property owners and the Village of Midlothian Volunteer Coalition supports the request. He further stated staff recommended denial because the proposed zoning and land uses do not conform to the Midlothian Area Community Plan.

Mr. Will Shewmake, representing the applicant, stated this is a companion to Case 06SN0110, indicating that the property is separated because of title ownership issues that had to be addressed. He further stated the Transportation Department has no issues with this request.

Mr. King called for public comment.

Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition, stated she supports the proposed development. She further stated Winterfield Station residents were upset when they realized Winterfield Road was being relocated through their neighborhood, but became comfortable with the realignment because of proposed sidewalks, street trees and streetlights.

Mr. Peppy Jones stated he supports the request.

There being no one else to speak to the request, the public hearing was closed.

Mr. Barber made a motion, seconded by Mrs. Humphrey, for the Board to approve Case 06SN0111 and accept the proffered conditions.

Mr. Barber stated staff has rightly recommended denial of the two companion cases based on the Midlothian Area Community Plan. He further stated the plan is fairly old and in need of revision to address current trends in development. He stated he intends to bring forward a significant contribution from the Midlothian District Improvement Fund to the Planning

staff to be used as matching funds for the Plan to be updated sooner than later, and has challenged the Midlothian Village Volunteer Coalition to make matching funds available. He further stated, as other zoning requests arise in the area, it will be advantageous to have an updated land use plan. He stated, when the update is completed, the area that is the subject of the two zoning cases will be included in the area designated as Midlothian Village.

Mr. King called for a vote on the motion of Mr. Barber, seconded by Mrs. Humphrey, for the Board to approve Case 06SN0111 and accept the following proffered conditions:

1. Master Plan. The Textual Statement dated January 5, 2006, and the Plan prepared by Balzer and Associates dated June 27, 2005, and revised October 18, 2005, shall be considered the Master Plan ("the Plan"). (P)
2. Density. The maximum density of this development shall not exceed fourteen (14) dwelling units. (P)
3. Foundations. All exposed portions of the foundation and exposed piers supporting front porches of each dwelling unit shall be faced with brick or stone veneer. (P)
4. Vinyl Siding. Vinyl siding shall be prohibited. (P)
5. Utilities. Public water and wastewater systems shall be used. (U)
6. Impacts on Capital Facilities. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, for infrastructure improvements within the service district for the property:
 - A. Prior to the issuance of a building permit for each dwelling unit, the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield the following amounts for infrastructure improvement within the service district for the property:
 - i. If payment is made prior to July 1, 2006, \$15,600.00 per dwelling unit. At time of payment \$15,600.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915.00 for roads, and \$404.00 for fire stations, and \$5,331.00 for schools; or
 - ii. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit pro-rated as set forth in Proffered Condition 6.a.i. above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
 - iii. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.

7. Timbering. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
8. Burning Ban. The developer shall not use burning to clear or timber the subject properties. (F)
9. Right of Way Dedication. In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, sufficient right of way for Winterfield Road shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County, as determined by the Transportation Department. Provided, however, the total aggregate right of way width when combined with any dedicated right of way required in Case No. 06SN0110 shall not exceed seventy (70) feet. (T)
10. Road Improvements. In conjunction with the initial development, the developer shall construct the following improvements. The exact location and design of these improvements shall be approved by the Transportation Department. The developer shall dedicate, free and unrestricted to Chesterfield County, any right-of-way (or easements) required for these improvements.
 - a. Winterfield Road Re-Aligned from the West Winterfield Road/Roderick Court intersection to the existing railroad crossing, as generally shown on the Plan,
 - b. A cul-de-sac on Winterfield Road at Winterfield Road Re-Aligned, if approved by VDOT and the Transportation Department. Unless otherwise approved by VDOT and the Transportation Department, the cul-de-sac shall be constructed on the subject property and/or within available right(s) of way,
 - c. Realignment of the existing West Winterfield Road/Winterfield Road intersection. In the event the developer is unable to acquire any right-of-way required for this improvement, the developer may request, in writing, that the County acquire such right(s)-of-way as a public road improvement. All costs associated with the acquisition of the right(s)-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the right(s)-of-way, the developer shall be relieved of the obligation to acquire the right(s)-of-way and shall provide the improvement within available right(s)-of-way, as determined by the Transportation Department,
 - d. Sidewalks having a minimum width of five (5) feet along both sides of Winterfield Road Re-Aligned from the southern property line to the West Winterfield Road/Winterfield Road intersection,

- e. All roads that accommodate general traffic circulation through the development, as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System. (T)
11. Transportation Contribution. If the Applicant provides road improvements approved by the Transportation Department (the "Improvements"), other than those road improvements identified in Proffered Condition 10, then the cash proffer payment(s) for the road component as set forth in Proffered Condition 6 shall be reduced so long as the cost to construct the Improvements is of equal or greater value than that which would have been collected through the payment(s) of the road component of the cash proffer. For purposes of this section, other road improvements not identified in Proffered Condition 10, include without limitation, improvements of the railroad crossing to the south of the subject property. Once the sum total amount of the cash proffer credit exceeds the cost of the Improvements, as determined by the Transportation Department, thereafter the Applicant shall commence paying the cash proffer as set forth in Proffered Condition 6 as adjusted for the credit. For the purposes of this proffer, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant shall receive prior written approval by the Transportation Department for any credit amount. (T)
12. Restrictive Covenants. The following restrictive covenants shall be recorded in conjunction with the recordation of any subdivision plat or prior to any site plan approval, which ever occurs first:
- a. Design Guidelines - Any areas to be developed with a neotraditional design as defined in the Textual Statement shall be developed pursuant to and consistent with the Residential Design Guidelines Manual prepared by Looney Ricks Kiss, and referred to as the "Design Guidelines Manual."
 - b. Architectural Board - The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors of the Homeowners Association (the "Board of Directors"), shall promulgate application and review procedures, all as part of the design and developmental standards. The Architectural Board shall incorporate the "Design Guidelines Manual", as described below in its review and approval of all applications submitted. Copies of the "Design Guidelines Manual" shall be available from the Architectural Board for review and use by owners, builders and/or developers. The guidelines and

procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to owners, builders, and developers only under extreme circumstances or hardships. Such circumstances or hardships shall be clearly demonstrated to be considered for amendment. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Board of Directors, and at least one (1) member shall be an architect licensed to practice in the State of Virginia. It is intended for the Architectural Board to maintain the character and integrity of the development.

- c. Signs - No signs shall be erected or maintained on any residential property by anyone including, but not limited to, the owner, a contractor, or a subcontractor, except as provided for in the "Development Guidelines Manual" or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Board of Directors. Realtor signs "For Sale" may be erected and are subject to review of the Declarant or Architectural Board.
- d. Condition of Ground - It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on his lot. All improvements on each lot shall be kept in good repair, and where necessary, painted in a regular basis. No portion of the property shall be used or maintained as a dumping ground for rubbish. Outdoor burning of leaves, trash, or other debris shall not be permitted. All trash, garbage, and other waste shall be kept in sanitary containers, which shall be surrounded by a wood or vinyl screen with such screening to be approved by the Architectural Board, or otherwise out of sight from the street.
- e. Snow and Ice Removal - Each property owner shall be required to perform snow and ice removal from sidewalks that are on/or adjacent to their property.
- f. Residential Use - All lots shall be used for residential purposes exclusively. The use of a

portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the side and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building and approved by the Architectural Board.

The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

- g. Exterior Structure Completion - The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonable clean and uncluttered condition.
- h. Screened Areas - Each builder shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks, similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects much be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be in accordance with the "Design Guidelines Manual" and approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.
- i. Vehicle Storage - No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.
- j. Temporary Structures - No structure of a temporary character shall be placed upon any lot at any time

provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.

- k. Antennas - No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot, except as permitted by applicable law and except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Board of Directors for permission to install a television antenna and such permission shall not be unreasonably withheld.
- l. Further Subdivision - No lot shall be subdivided or its boundary lines changed. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create a modified building lot or a replatted lot suitable and fit as a building site including, but not limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.
- m. Animals - Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any residential lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet, which has been a nuisance or a danger.
- n. Motor Bikes All Terrain Vehicles - No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, pathways, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which

shall be operated solely upon the public streets for direct ingress and egress purposes only.

- o. Swimming Pools - No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.
 - p. Rules and Regulations - The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Homeowners Association at least thirty (30) days prior to their effective date.
 - q. Enforcement - The Board of Directors reserves the right to correct any situation, on any lot that violates the deed restrictions herein. The Board of Directors shall provide written notice to the owner in violation a minimum of thirty (30) days prior to any action to be taken by the Board of Directors. The Board of Directors shall have the right to correct the violation and collect reimbursement from the owner of the lot requiring action. If payment is not made or arranged for within thirty (30) days of the Board of Directors' request, the Board of Directors reserves the right to place a lien on said property or take any appropriate legal action necessary. (P)
 - r. Enforcement - The Board of Directors reserves the right to correct any situation, on any lot that violates the deed restrictions herein. The Board of Directors shall provide written notice to the owner in violation a minimum of thirty (30) days prior to any action to be taken by the Board of Directors. The Board of Directors shall have the right to correct the violation and collect reimbursement from the owner of the lot requiring action. If payment is not made or arranged for within thirty (30) days of the Board of Directors' request, the Board of Directors reserves the right to place a lien on said property or take any appropriate legal action necessary.
13. Open Space. Unless otherwise approved by the Planning Department, .45 acre of open space adjacent to and along the western side of Winterfield Road generally across from the development shall be provided as a focal point for the development. Part of the focal point area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate gatherings. The focal point shall be developed concurrent with the development of the subject property. (P)

Ayes: King, Miller, Barber, Humphrey and Miller.

Nays: None.

05SN0193 (Amended)

In Matoaca Magisterial District, SBF LLC requests rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-40) to Residential (R-25) and relief from street access requirements plus a Conditional Use to permit recreational facilities. Residential use of up to 1.74 units per acre is permitted in a Residential (R-25) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.0 units per acre or less. This request lies on 61.4 acres fronting approximately 1,950 feet on the west line of Woolridge Road, also fronting approximately 730 feet on the south line of Crown Point Road and located in the southwest quadrant of the intersection of these roads. Tax IDs 717-681-5038 and 6767; 717-682-6832; 718-681-3676; and 718-682-3148 (Sheets 9 and 15).

Ms. Jane Peterson presented a summary of Case 05SN0193 and stated the Planning Commission and staff recommended approval of the rezoning and conditional use and acceptance of the proffered conditions. She noted the request conforms to the Upper Swift Creek Plan. She stated the Planning Commission recommended approval of the request for relief from street access requirements and a waiver to street connectivity. She further stated staff has concerns relative to relief from street access and connectivity requirements which promote accessibility.

In response to Mr. Miller's question, Ms. Peterson stated no additional access would be placed on Crown Point Road if the proposal included two access points. She further stated if all 62 lots are allowed to have access to Crown Point Road, the 1500 vehicle per day limitation would not be exceeded; therefore, the requested waiver does not meet the criteria for approval.

Mr. Andy Scherzer, representing the applicant, stated Crown Point residents were concerned that connection would result in cut-through traffic. He further stated the applicant is allowing one access to Woolridge Road because there is well over 1,500 feet of road frontage, indicating the Transportation Department's desire to minimize the number of accesses along Woolridge Road. He stated, at some point, adjacent property will be developed providing a second access for the proposed development. He further stated the density has been reduced to 59 dwelling units, resulting in only nine units in excess of the requirement for a second access. He stated the Planning Commission recommended approval and requested the Board's support.

Mr. King called for public comment.

No one came forward to speak to the request.

In response to Mrs. Humphrey's question, Mr. Scherzer stated the applicant has agreed to provide the transportation portion of the cash proffer prior to the first building permit being issued. He further stated the developer is planning to provide construction along Woolridge Road or in whatever area Transportation staff directs, to the limits of the cash contribution, indicating that he believes the developer can provide two or three times the amount of road improvements as the county using the same dollars because the

private sector is not limited in the procurement process. He stated the applicant, in addition to the cash proffer, has also agreed to improve a dangerous curve on Woolridge Road along the road frontage of the subject property.

Mrs. Humphrey stated she appreciates the lowering of the density and the road improvements being offered by the applicant.

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board approved Case 05SN0193 and accepted the following proffered conditions:

1. Public water and wastewater systems shall be used. (U)
2. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
3. The tentative subdivision shall be designed to achieve a .22 phosphorus runoff limitation on-site unless on the date of submission of the tentative subdivision plan, a more restrictive standard is required by Ordinance for on-site runoff limitations, in which case the tentative subdivision shall be designed to meet the more restrictive standard. (EE)
4. A maximum of fifty nine (59) additional dwelling units for a cumulative total of sixty-two (62) dwelling units shall be permitted on the property. (P)
5. The minimum gross floor area for each new dwelling unit shall be 2500 square feet. (P)
6. All exposed portions of the foundation of each new dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (BI & P)
7. Manufactured homes shall not be permitted. (P)
8. Only one lot shall be permitted access to Crown Point Road. Such lot shall have a minimum lot area of 88,807 square feet. (P)
9. A tree preservation area, containing a minimum width of thirty (30) feet, shall be maintained along the south side of the ultimate right of way of Crown Point Road, extending a minimum of 200 feet west of the ultimate right of way of Woolridge Road. Within this area, any healthy trees that are six (6) inches in caliper or greater shall be retained. As an alternative to this tree preservation, this area shall be landscaped in compliance with the Zoning Ordinance requirements for fifty (50) foot buffers. At the time of subdivision plan review, a landscape plan shall be submitted for review and approval by the Planning Department demonstrating compliance with this condition. (P)

10. Prior to tentative subdivision approval, the developer shall submit certification to the Planning Department that the adjacent landowners have been notified in writing of the submission of the tentative plan to the County for review and approval. The tentative subdivision application shall not be considered complete until such certification has been submitted to the Planning Department. The fifteen (15) day period for appeals to the Planning Commission shall not commence until such certification has been provided. (P)
11. Impacts on Capital Facilities. In addition to the Transportation Contribution described in Proffered Condition 12, the applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, for infrastructure improvements within the service district for the property:
- A. If payment is made prior to July 1, 2006, \$6,685.00 per dwelling unit. At time of payment \$6,685.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$5,331.00 for schools, and \$404.00 for fire stations; or
 - B. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$6,685.00 per dwelling unit pro-rated as set forth in Proffered Condition 11.A. above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made.
 - C. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
 - D. Should any impact fees be imposed by the County of Chesterfield at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B & M)
12. Transportation Contribution. The applicant, his successor(s), or assignee(s) (the "Applicant") shall pay to the County of Chesterfield prior to recordation of the initial subdivision plat the amount of \$525,985.00. If this amount is paid after June 30, 2006, the amount paid shall be adjusted upward by any Board of Supervisors' approved increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made. The payment shall be used for road improvements in accordance with the Board's cash proffer policy. The payment could be used towards road improvements to Woolridge Road.

If, upon the mutual agreement of the Transportation Department and the Applicant, the Applicant provides road improvements (the "Improvements"), other than those road improvements identified in Proffered Condition 15,

then the transportation contribution in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the Applicant shall pay the balance of the transportation contribution as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant shall receive prior written approval by the Transportation Department for any credit. (T)

13. Direct access from the property to Woolridge Road shall be limited to one (1) public road and one (1) private driveway that serves the parcel identified as Tax ID 717-681-5038. The exact location of the public road shall be approved by the Transportation Department. (T)
14. In conjunction with recordation of the initial subdivision plat or within sixty (60) days of a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way, measured from a revised centerline of Woolridge Road based on VDOT Urban Minor Arterial Standards (50 mph) as approved by the Transportation Department, for the entire property frontage shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
15. To provide an adequate roadway system, the developer shall provide the following improvements with initial development of the property:
 - a. Construction of additional pavement along Woolridge Road at the approved access to provide left and right turn lanes, if warranted, based on Transportation Department standards.
 - b. Widening/improving the north side of Woolridge Road to an eleven (11) foot wide travel lane, measured from the existing centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlaying the full width of the road with one and a half (1.5) inch of compacted bituminous asphalt concrete, with any modifications approved by the Transportation Department, for the entire property frontage.
 - c. Reconstruction of the substandard horizontal curve on Woolridge Road, located towards the southern part of the property, as a two (2)-lane roadway to VDOT Urban Minor Arterial Standards (50 mph) with modifications approved by the Transportation Department. The exact length of this improvement shall be approved by the Transportation Department.
 - d. Dedication to and for the benefit of Chesterfield County, free and unrestricted, of any additional

right-of-way (or easements) required for the improvements identified above. (T)

16. Construction traffic for the initial development shall be prohibited on Crown Point Road. (P)
17. Recreational facilities shall be limited to a walking path, picnic shelter/gazebo and an observation dock. This provision shall not preclude walking paths and/or sidewalks throughout the development. (P)
18. The recreational facilities shall primarily serve the surrounding residential community. (P)
19. The location of the recreational facilities shall be identified on the record plat. (P)
20. The recreational facilities shall only be permitted in conjunction with subdivision development on the property. (P)
21. The following shall be recorded as deed restrictions in conjunction with the recordation of any subdivision plat:
 - A. No lot shall be used except for residential purposes. No business uses (profit or non-profit) including home occupations shall be conducted on the premises. Home occupations may be permitted if approved by the Homeowners' Association.
 - B. No improvements including, without limitation, a dwelling, accessory structure, or addition such as a carport, driveway, porch, sidewalk, roof, lamp post, fence, garage, or other outbuildings, landscaping, or, to the extent permitted by law, antenna, or similar device, or change in the exterior color or siding material shall be made, erected, altered, or replaced unless two sets of detailed plans and specifications, including a site plan locating all such improvements and describing exterior finishes (material and color, including roof) have first been submitted to and approved by Declarant in writing.
 - C. Declarant reserves unto itself the right and privilege to install gas lines, water lines, sewer lines, storm sewers, electric lines, telephone and telegraph poles, lines and wires, and other utilities and appurtenances in the street and roads of the Subdivision and along the property lines of the Lots, and to grant to other persons, companies, or corporations any or all of such rights and privileges, but the reservation of such rights shall not relieve any grantee from the obligation to pay the usual and customary charges made with respect to his Lot for the installation and/or connection of utilities.
 - D. In considering requests for approval of fences and hedges, the following general guidelines will be applied:

1. No fence shall be permitted in the front yard of any Lot (between the building setback line and street line).
 2. No fence or hedge shall generally be permitted higher than 42 inches of any Lot.
 3. No chain link fences or fences of other materials similar in nature or appearance will be permitted on any Lot.
- E. Declarant may in its absolute discretion waive or modify these guidelines and consider such other criteria as it shall deem appropriate.
- F. No sign of any kind shall be displayed to public view on any Lot, unless first approved in writing by Declarant, except on sign of not more than four (4) square feet advertising the property for sale or rent, or signs used by a the initial construction and sales period.
- G. No use shall be made of any Lot, or any part thereof which constitutes a nuisance or which would adversely affect the value or marketability of other Lots, No stables, swine, sheep, cows, or the like shall be permitted on any Lot. All trash, garbage and/or rubbish shall be kept in sanitary containers located so as not to be visible from a public street except as necessary for limited times in connection with pickup and removal by disposal services and except during periods of construction.
- H. No driveway, entranceway, or sidewalk shall be constructed on any Lot unless approved as provided in paragraph 2.
- I. No swimming pool shall be located nearer to any street line than the rear building line of the dwelling.
- J. No structure of a temporary character or any trailer, tent, barn, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.
- K. No trees over six (6) inches in diameter shall be removed from any Lot without the prior written approval of Declarant.
- L. No portable air conditioner units will be place in any window of a dwelling or other building if visible from a public street.
- M. Except as otherwise provided by applicable law, no exterior television antenna (including "dish" type) or other antennas shall be permitted to extend over five (5) feet above the roofline of any building.
- N. No motor vehicle will be parked on or adjacent to any Lot which does not have a current state license, state inspection sticker, and county license, and no commercial vehicle, such as a

school bus, delivery truck, or other large vehicle or equipment will be parked on a street in the subdivision or on any Lot. No recreational vehicle (mobile home, camping trailer, and other similar vehicles) shall be parked on a street in the Subdivision or on a Lot except in a driveway shown on plans that have been approved as provided in Paragraph 2.

- O. Any one or more of the covenants or restrictions imposed by paragraphs I through 14 above may be waived or modified, in whole or in part, as to the entire Subdivision or any part thereof, by written instrument signed by Declarant and recorded where these restrictions are recorded.
- P. In addition to the foregoing conditions and restrictions, the Lots shall be subject to easements for drainage and utilities, including power and telephone lines, as shown on the plat, and any other easements of record at the time of conveyance of any Lot.
- Q. Invalidation of any one of the provisions of these restrictions by judgment, court order, or otherwise shall in no way affect any of the other provisions which shall remain in full force and effect.
- R. Declarant reserves the right to assign and transfer to any person, persons, or entity some or all of its rights provided herein and in such event such transferee shall have and may exercise all such rights to the same extent as if he, they, or it were the Declarant.
- S. Declarant shall have the full right and privilege to enforce all restrictions and conditions contained herein by appropriate proceeding at law for damages and/or in equity for appropriate injunctive relief and restraining orders to prevent violations, or to require violations to be corrected, together with damages sustained including, without limitation, attorneys' fees and costs. In addition, any Owner shall have, after seventy-five percent (75%) or more of the Lots have been conveyed to purchasers other than builders, the right to enforce compliance with these restrictions as provided in this paragraph.
- T. These restrictions shall run with the land and be binding upon any and all succeeding owners, their personal representatives, estates, heirs, devisees, assigns, or successors in interest or any other parties having or taking an interest in or to the Property, or any part thereof, and shall automatically be extended for successive periods of ten (10) years unless otherwise provided in a written instrument executed by the owners of a majority of the Lots in the Subdivision unless a release, waiver, or breach of any one or more of the restrictions contained herein or any part thereof is required or agreed to by a court or

governmental authority having jurisdiction over the Property.

U. Declarant, as owner of all of the Property subjected to the Declaration, shall, at such time as it deems appropriate, cause to be incorporated under the laws of the Commonwealth of Virginia a non profit corporation to be named "(Subdivision Name Here) Homeowner's Association" or a similar name (the "Association").

1. All Owners shall be members ("Members") of the Association and shall be entitled to one (1) vote, per each Lot owned by them (provided, however, that if a Lot is owned by more than one owner, the owners of such Lot shall be entitled to only one vote between them), on all matters which are required to be decided by a vote of the Members of the Association.
2. The Members shall annually elect a five (5) member board of directors (the "Board of Directors") which shall be responsible for operating the Association, provided, however, that until such time as eighty-five percent (85%) of the Lots are owned by persons other than builders of the Declarant, the Board of Directors shall consist of five (5) directors all of whom shall be selected by the Declarant.
3. Each year the Board of Directors shall prepare an annual budget (the "Budget") containing an itemization of the expenses, which it anticipates, the Association will incur during the upcoming year to fulfill its responsibilities hereunder. The Budget shall be sent to each owner together with a notice of assessment (the "Annual Assessment") for the owner's pro rata share of the budget, which shall be computed by dividing the total Budget by the number of Lots. Upon receipt of the Annual Assessment, each Owner shall be required to make payment of the same in the manner designated by the Board of Directors.
4. In addition to any Annual Assessments, the Association may levy in any assessment year a special assessment (the "Special Assessment") applicable to that year only for the purpose of defraying in whole or in part the cost of any reconstruction, unexpected repair, or replacement of a capital improvement, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment shall have the consent of the Owners of two-thirds (2/3) of the lots.
5. Any Annual Assessment or Special Assessment (the "Assessments") which is not paid by an Owner within such time as shall be determined by the Board of Directors shall bear interest at a rate per annum determined by the Board of

Directors from such date until paid and shall constitute a lien upon the Lot owned by such Member. Such lien shall have priority over all other liens including, without limitation, mortgages, deeds of trust, or any other lien hereafter placed upon any Lot, except a first mortgage of deed of trust securing a loan by a bona fide institutional lender to which such lien shall be subordinate. No Owner may waive or escape liability for the assessments hereunder for any reason. No sale or other transfer shall relieve any owner from liability for any Assessments due nor any Lot from the lien of any Assessments. The amount of any such lien may be enforced by suit or otherwise at the election of the Association and the Owner shall be required to reimburse the Association for all attorneys' fees and expenses incurred in so doing, the amount of which shall also constitute a lien on the Lot as herein provided. Notwithstanding the above, a party who acquires title to a Lot by virtue of the foreclosure of lien secured by a first mortgage of deed of trust to which this lien is subordinate or by a deed or assignment in lieu of foreclosure any liability of lien chargeable to such Lot on account of any period of time prior to such acquisition of title. Said acquiring party shall, however, be bound by the provisions of this Declaration including, without limitation, Assessments effective after said acquisition of title.

- V. The Declarant hereby reserves the right, at Declarant's sole discretion, to add the Additional Land to the property subject to the Declaration of Protective Covenants.
- W. All private driveways serving each new dwelling unit shall be hardscaped. The exact treatment shall be approved at the time of plan review.
- X. All new garages shall be rear or side loaded. (P)

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mrs. Humphrey then made a motion, seconded by Mr. Barber, for the Board to approve the request for relief from street access requirements for Case 05SN0193.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mrs. Humphrey made a third motion, seconded by Mr. Miller, for the Board to approve the request to waive street connectivity requirements for Case 05SN0193.

Mr. Miller expressed concerns that the Board is waiving street connectivity requirements in many cases, and he hopes the Board is not just honoring neighborhood requests and ignoring the street connectivity policy. He stated the Board may want to revisit the connectivity policy at some point.

Mr. Barber also expressed concerns regarding the waiver of the street connectivity requirements, indicating that there must be a good reason for waiving connectivity requirements. He stated, he too, believes the connectivity policy should be reviewed in the near future.

Mrs. Humphrey noted the last two cases have offered good alternatives for granting a waiver to connectivity requirements.

Mr. King called for a vote on the motion of Mrs. Humphrey, seconded by Mr. Miller, for the Board to approve the request to waive street connectivity requirements for Case 05SN0193.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

05SN0199

In Clover Hill Magisterial District, JACQUELINE AND ROBERT C. HARGRAVE request rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-15) plus relief from street access requirements. Residential use of up to 2.9 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for low density residential use of 1.5 units per acre or less. This request lies on 36.9 acres fronting approximately sixty (60) feet on the west line of Courthouse Road approximately 560 feet north of Smoketree Drive, also fronting approximately 580 feet on the south line of Berrand Road approximately 1,225 feet west of Courthouse Road. Tax IDs 742-702-7055; 743-701-Part of 7043; 743-702-1454 and 1916; and 744-701-1388 (Sheet 6).

Ms. Peterson presented a summary of Case 05SN0199 and stated the Planning Commission and staff recommended approval of the rezoning request and acceptance of the proffered conditions. She noted the proposal complies with the Powhite-Route 288 Development Area Plan. She stated the Planning Commission recommended approval of requests for relief from street access requirements and the waiver to street connectivity requirements. She stated staff has concerns relative to relief from street access and connectivity requirements, which promote accessibility.

Mr. Andy Scherzer, representing the applicant, stated the applicant is proposing to provide emergency access to Berrand Road, which is not constructed to today's standards, indicating the Transportation Department to does not support a public road connection unless Berrand Road is improved to current state standards. He further stated, if the funding becomes available to improve Berrand Road, the connection could be made at a later date. He stated this development will provide additional access to the adjacent church parking lot. He further stated the applicant has proffered to provide the transportation cash proffer prior to issuance of any building permits and/or construction to ameliorate the traffic impact on Courthouse Road in the vicinity of the proposed development. He noted the applicant will be extending a turn lane, which will provide a safe route to

turn into the proposed development, as well as a cross access easement.

In response to Mr. Barber's question, Mr. Scherzer stated the stub road to Berrand is being gated to provide a second access for the 51st lot, which is intended for sale to the church. He further stated staff has requested that the applicant provide the gate until Berrand Road is improved.

Mr. King called for public comment.

Mr. Richard Beaulieu, a resident of Courthouse Road, expressed concerns that additional pavement on Courthouse Road will place his home approximately 27 feet from the road. He further stated he was under the assumption when Courthouse Road was widened and the right of way acquired that the excess right of way would be used for sidewalks and utilities, not additional roadway. He inquired why the revision of the land use plan for Courthouse Road has been delayed for so long, indicating that his property value is worthless as long as it is zoned for residential development.

Mr. McCracken stated the new right turn lane along Courthouse Road is required for the proposed development. He further stated there are no plans for sidewalks along Courthouse Road at this time.

Mr. Warren suggested that Mr. Beaulieu be involved in the process for revising the Courthouse Road Plan.

Mr. Beaulieu stated residents of the proposed development will join in the neighboring subdivisions' struggle to keep Courthouse Road from being zoned commercial. He further stated, although he understands the need for a fire station in the area, he is constantly disturbed by vehicle lights as they exit the fire station parking lot. He requested that the Board think about his situation and move forward with commercial zoning for Courthouse Road, so that he can sell his property.

In response to Mr. Barber's question, Mr. Turner stated staff has made draft recommendations for the Courthouse Road Plan amendment and it is scheduled for a work session on the Planning Commission's March agenda. He further stated, once the Planning Commission is satisfied with staff's recommendations, the Planning Commission will hold public meetings and then bring the amendments forward for a public hearing.

Ms. Andrea Epps stated she hopes school buses will be able to turn around on the dead end roads in the proposed development.

There being no one else to speak to the request, the public hearing was closed.

Mr. Warren stated he feels the case has merit, and a lot of work has occurred between the applicant, the neighborhood and the church. He further stated Mr. Beaulieu's issues will be considered through the Courthouse Road Plan amendments.

Mr. McCracken stated the streets in the proposed development will be designed to Virginia Department of Transportation

standards and he does not anticipate any unusual issues for school buses.

On motion of Mr. Warren, seconded by Mr. King, the Board approved Case 05SN0199 and accepted the following proffered conditions:

1. Public water and wastewater systems shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property:
 - A. Prior to the issuance of a building permit for each dwelling unit the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield the following amounts for infrastructure improvement within the service district for the property:
 - i. \$15,600.00 per dwelling unit, if paid prior to July 1, 2006. At time of payment the \$15,600.00 will be allocated pro-rata among the facility costs as follows: \$8,915.00 for roads, \$602.00 for parks and recreation, \$348.00 for library facilities, \$5,331.00 for schools, and \$404.00 for fire stations; or
 - ii. The amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit pro-rated as set forth in Proffered Condition 2.A.i. above adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2005 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
 - B. At the option of the Transportation Department the roads portion of the cash proffer payment may be reduced for road improvements to Courthouse Road by an amount not to exceed the amount that would be paid in cash proffers for the road component as identified in Proffered Conditions 2.A. above, exclusive of those road improvements identified in Proffered Condition 13, performed by the applicant, subdivider, or assignee(s), as determined by the Transportation Department. For the purposes of this proffer, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant shall receive prior written approval by the Transportation Department for any credit amount.
 - C. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
 - D. Should any impact fees be imposed by the County of Chesterfield at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu

of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B & M)

3. A maximum of fifty (50) additional dwelling units for a cumulative total of fifty one (51) dwelling units shall be permitted on the property. (P)
4. Manufactured homes shall not be permitted. (P)
5. The minimum gross floor area for each dwelling unit shall be 2,500 square feet, except that two dwelling units shall be permitted to have a minimum of 2,300 square feet. Except for one (1) dwelling unit, all dwelling units immediately adjacent to Tax ID 742-702-3633 and 742-702-1760 shall have a minimum of 3,000 square feet. (P)
6. Except where buffers are required by Subdivision Ordinance Section 17-70, a fifteen (15) foot tree preservation strip, exclusive of required yards, shall be maintained along the boundary of the subject property adjacent to Tax ID's 742-702-3633, 742-702-1760, 743-702-9162, 744-702-0933 and 5914, Berrand Road and Ashley Woods East and Finchley Subdivisions. Utility easements shall be permitted to cross this strip in a perpendicular fashion. Any healthy trees that are eight (8) inches in caliper or greater shall be retained within this tree preservation strip except where removal is necessary to accommodate the improvements permitted by the preceding sentence. This condition shall not preclude the removal of vegetation from the tree preservation strip that is unhealthy, dying or diseased. Any open areas of 100 square feet or greater shall either be supplemented with plantings in accordance with Sections 19-518 (b) & (g)(9) of the Ordinance or shall be furnished with a minimum six (6) foot high privacy fence. A plan depicting this planting/fencing requirement shall be reviewed and approved by the Planning Department at time of Tentative Subdivision plan review. (P)
7. All exposed portions of the foundation of each new dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (BI & P)
8. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
9. Double siltation fencing shall be provided along the western property edge to provide additional protection for the existing pond on Tax ID 742-702-3633 & 742-701-3196. Location of such fencing shall be determined and approved at time of subdivision construction plan review. (EE)
10. Direct access from the property to Courthouse Road shall be limited to one (1) public road. The exact location of

this access shall be approved by the Transportation Department. (T)

11. A private ingress and egress easement shall be provided from the proposed Subdivision Street to Tax ID 744-702-5914. The exact location of this easement shall be determined and approved at time of tentative subdivision approval. (T)
12. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way along the west side of Courthouse Road measured from the centerline of that part of the roadway immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
13. To provide an adequate roadway system, the developer shall be responsible for the following improvements:
 - A. Construction of additional pavement along Courthouse Road at the approved access to provide a right turn lane, if warranted, based on Transportation Department standards.
 - B. Dedication to and for the benefit of Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any improvement described in Proffered Condition 13.A. or 2.B., the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department. (T)
14. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 13, shall be submitted to and approved by the Transportation Department. (T)
15. Any public right of way that extends to the southern boundary of existing Berrand Road shall be constructed to accommodate access in case of emergency and shall be gated to preclude its use other than during emergency situations. The exact design, location and maintenance provisions of this access shall be reviewed and approved by the Fire Department at the time of tentative subdivision plan review. (F)
16. All private driveways shall be hardscaped. The exact treatment shall be approved at the time of plan review. (P)

17. Concentrated drainage and/or drainage from the impervious surfaces of roofs and driveways on lots abutting Tax ID's 742-702-3633, 742-702-1760 shall outfall into a swale or drainage system provided for the purpose of directing this drainage away from the pond located on Tax ID 742-702-3196. (EE)
18. There shall be no direct vehicular access from the property to Old Lewiston Road. (T)
19. It shall be noted on the record plat for any subdivision section recorded on the subject property that there shall be no explicit rights or access to the pond located on Tax ID 742-701-3196 given to the lots recorded therein. (P)
20. Post development drainage shall be designed such that drainage that is directed to the swale located in the rear yards of lots located in Ashley Woods East and Finchley Subdivisions shall be required to have the post-development runoff rate be equal to or less than the pre-development runoff rate and shall be achieved through means other than a SWM/BMP. (EE)

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mr. Warren then made a motion, seconded by Mr. Barber, for the Board to approve the request for relief from street access requirements for Case 05SN0199.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mr. Warren made a third motion, seconded by Mrs. Humphrey, for the Board to approve the waiver for street connectivity requirements for Case 05SN0199.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

05SN0284

In Matoaca Magisterial District, CHESDIN DEVELOPMENT COMPANY requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-88) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1-5 acre lots, suited to R-88 zoning. This request lies on 1,290.8 acres fronting the south side of River Road southeast of Graves Road, also fronting on the west line of Le Master Road south of River Road. Tax IDs 750-614-4898; 750-616-7388; 750-619-3142; 751-614-Part of 7777; 751-616-1374 and 8457; 752-619-4676; 753-615-Part of 4357; 753-617-1436; 754-618-8390; 754-619-2731, 4817 and 7610; 757-611-9582; 755-612-7662; and 757-615-1498 (Sheets 39, 40, 43 and 44).

Ms. Darla Orr presented a summary of Case 05SN0284 and stated the Planning Commission recommended approval and acceptance

of the proffered conditions, indicating that more open space will be provided by allowing the smaller lots in the development; the road improvements necessary in the area will be provided; and it would be appropriate to include access to Le Master Road. She further stated staff recommended denial of the rezoning request because it fails to comply with the Southern and Western Area Plan; the majority of the open space being provided is already protected by the Chesapeake Bay Preservation Act; there are no guarantees with the proposed one-acre lots that the ultimate development will not be the same as any traditional larger lot subdivision in other areas of the county; the commercial uses do not meet the location criteria of the Plan; and maintaining connections to the roads would better disburse the traffic generated by the proposed development.

Ms. Ashley Harwell, representing the applicant, stated the applicants believe the proposed development is in accordance with the Southern and Western Area Plan. She further stated the proposed development will adhere to R-88 standards and be subject to the Conditional Use Planned Development standards set forth in the proffered conditions and textual statement. She stated the proffered conditions will require 200 acres to be set aside as open space, and the Conditional Use Planned Development requirements provide for lots under two acres having that amount of reduction set aside in open space as well. She further stated the proposed commercial areas are reasonably close to those areas identified for commercial development, and residents have indicated it would be nice to have services closer to their homes. She stated the density is consistent with the Plan recommendations, and the case includes the full cash proffer and provided for two lump sum transportation contributions at different phases of the development. She further stated an emergency access will be provided in the development for emergency service access to Lake Chesdin. She stated three roads currently provide access to the subject property, and the applicant is requesting a waiver of the connectivity requirement for Le Master Road, indicating that application of the connectivity policy in this case would not achieve the goals of the policy. She further stated, because of the way that Graves and Le Master Roads intersect and then lead out onto River Road, diverting some traffic from Graves onto Le Master would just divert it for a very short period of time before being placed back onto Le Master at an intersection. She stated if the traffic were divided evenly among the three accesses, including Le Master Road, more than 4,500 vehicles per day would travel on Le Master, which is about three times the maximum number for a road such as this. She noted that both Graves and Le Master Roads are older roads, not built to state standards, and are currently used by the homeowners whose property fronts them. She stated the applicant believes this combination of factors supports waiver of the connectivity requirements.

In response to Mrs. Humphrey's questions, Ms. Harwell stated Graves Road will be rebuilt to some degree and there will be a 100-foot setback between Graves Road and the proposed development to provide a more rural setting for the residents of Graves Road.

Discussion ensued relative to the proposed commercial development on Tracts A, B and C of the subject property and

the open space, which is critical for maintaining the rural character of the area.

In response to Mrs. Humphrey's question, Ms. Harwell stated two areas of the subject property are set forth in the Textual Statement as being developable for stock farms, with the exception of pigs. She further stated a buffer would be provided around those tracts to minimize the impact of residential stock farm uses from the more traditional residential development.

Mr. King excused himself from the meeting.

Mr. Miller called for public comment.

Mr. Mark Krueger, a resident of Dinwiddie County and a Chesterfield County employee, expressed concerns relative to crowded roads that will be developed in the southern portion of Chesterfield County and residents of the proposed development who will ignore the buffering requirement so that they can have a great view of the lake. He further expressed concerns relative to residents building their lawns right up to the waterfront, resulting in runoff of unseen pollutants into Lake Chesdin, which is a source of drinking water. He stated the lake can only handle a certain number of recreational vehicles and requested that the Board deny the request and maintain the two-acre lot requirement.

Mr. King returned to the meeting.

There being no one else to speak to the request, the public hearing was closed.

Mrs. Humphrey stated the county's plan for managing phosphorous loading has been a priority. She further stated Chesterfield represents only about three percent of the Appomattox River Watershed and suggested that Mr. Krueger begin dialogs with Dinwiddie County relative to pollutants running off into Lake Chesdin. She stated the Appomattox River Water Authority fines homeowners when they cut mature vegetation along the lake. She further stated the county has made great strides with crowded roads in the vicinity of the proposed development, but there is no hope for state funding to improve some of the roads in Matoaca. She stated large developments, such as this, will generate revenue to make improvements to Graves Road, noting that this applicant will provide \$8900 per building permit towards local road improvements.

In response to Mrs. Humphrey's question, Ms. Harwell stated the overall density is approximately .45 units per acre, and the applicant has agreed to place the property adjacent to the lake in open space as opposed to in lots, indicating this will help address the issue raised by Mr. Krueger.

Mrs. Humphrey stated the proposal includes a full cash proffer, approximately two units per acre, limited amount of commercial space, recreational space, the gift of an easement, and a requirement that if the lot size is reduced below two acres, the amount of the reduction provided in open space. She further stated she appreciates the realignment of Graves Road and hopes future zoning cases in the Matoaca District will provide similar guarantees for the community.

Mrs. Humphrey then made a motion, seconded by Mr. Barber, for the Board to approve Case 05SN0284 and accept the following proffered conditions:

The Developer (the "Developer") in this zoning case, pursuant to §15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the Property known as Chesterfield County Tax Identification Numbers 750-614-4898, 750-616-7388, 750-619-3142, 751-614-7777, 751-616-1374, 751-616-8457, 752-619-4676, 753-615-4357, 753-617-1436, 754-618-8390, 754-619-2731, 754-619-4817, 754-619-7610, 755-612-7662, 757-611-9582, and 757-615-1498 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-88 with a conditional use planned development is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. Master Plan. The Textual Statement dated April 15, 2005, revised through February 16, 2006, shall be considered the Master Plan. (P)
2. Timbering. With the exception of timbering which has been approved by the Virginia State Department of Forestry, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. Density. The maximum number of dwelling units permitted on the Property shall be 575. (P)
4. Cash Proffers. In addition to the Transportation Contribution described in Proffered Condition 12, the applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of building permits for infrastructure improvements within the service district for the Property:
 - A. \$6,685 per dwelling unit, if paid prior to July 1, 2006. At the time of payment, \$6,685 will be allocated pro-rata among the facility costs as follows: \$5,331 for schools, \$602 for parks, \$348 for libraries, and \$404 for fire stations; or
 - B. The amount approved by the Board of Supervisors not to exceed \$6,685 per dwelling unit pro-rated as set forth in paragraph A. of this Proffered Condition adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
 - C. Provided, however, that if any building permits issued on the property are for senior housing, as

defined in the proffer on age-restriction, the applicant, sub-divider, or assignee(s) shall pay \$1,354 per unit to the County of Chesterfield, prior to issuance of a building permit, for infrastructure improvements within the service district for the Property if paid prior to July 1, 2006. The \$1,354 for any units developed shall be allocated among the facility costs as follows: \$602 for parks, \$348 for library facilities, and \$404 for fire stations. Thereafter, such payment shall be the amount approved by the Board of Supervisors not to exceed \$1,354 per unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006. Payments in excess of \$1,354 shall be pro-rated as set forth above.

- D. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B&M)

5. Age Restriction.

- A. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designated as age-restricted shall be restricted to "housing for older persons," as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein.
- B. Any dwelling units designated for senior housing, as outlined in Proffered Condition 5.A., shall be noted on the subdivision plat. Such dwellings units shall be grouped together as part of the same development section(s). (P)

6. Manufactured Homes. Manufactured homes shall not be permitted on the Property. (P)

7. Dedication. The following rights-of-way on the Property shall be dedicated, free and unrestricted, to Chesterfield County in conjunction with recordation of the initial subdivision plat, prior to any site plan approval, or upon request by the Transportation Department, whichever occurs first.

- A. Forty-five (45) feet of right-of-way on the south side of River Road, measured from the centerline of that part of River Road immediately adjacent to the Property. (T)

8. Access.

- A. Direct vehicular access from the Property to River Road shall be limited to three (3) public roads. The exact location of these accesses shall be approved by the Transportation Department.
- B. No vehicular access shall be provided from the Property to LeMaster Road. Direct vehicular access from the Property to Graves Road shall be limited to one (1) public road, generally located within 1,000 feet west of the LeMaster Road/Graves Road intersection. The exact location of this access shall be approved by the Transportation Department." (T)

9. Road Improvements. To provide an adequate roadway system, the Developer shall be responsible for the following improvements. If any of the improvements are provided by others, or if they are determined unnecessary by the Transportation Department, then the specific required improvement shall no longer be required by the Developer.

- A. Construction of left and right turn lanes along River Road at each approved access and at the Graves Road intersection, if warranted, based on Transportation Department standards.
- B. Widening/improving the south side of River Road to an eleven (11) foot wide travel lane, measured from the centerline of River Road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlaying the full width of the road with one and one half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage.
- C. Reconstructing Graves Road to twenty-four (24) foot wide pavement with seven (7) foot wide unpaved shoulders on each side of the roadway, with modifications approved by the Transportation Department, from River Road to the access into the Property, located west of the LeMaster Road intersection. The exact length of this improvement shall be approved by the Transportation Department.
- D. Provide adequate sight distance, as determined by the Transportation Department, along River Road at the Graves Road intersection.
- E. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the Developer is unable to acquire any "off-site" right-of-way that is necessary for the road improvements described in Proffered Condition 9, the Developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the Developer. In the event the

County chooses not to assist the Developer in acquisition of the "off-site" right-of-way, the Developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department.

F. Prior to any construction plan approval or site plan approval, whichever occurs first, a phasing plan for the required road improvements, as identified in Proffered Condition 9, shall be submitted to and approved by the Transportation Department. (T)

10. Chesterfield County Fire and EMS Department Access to Lake Chesdin ("Emergency Services"). Boat access for Emergency Services to Lake Chesdin shall be provided by the Developer. The location and timing of the installation of the boat access for Emergency Services to lake Chesdin from the Property shall be determined at the time of conceptual subdivision review. Nothing shall preclude this access point from being at a location used for recreational access. (F)

11. Common Open Space. A minimum of two hundred (200) acres of the gross acreage of the Property shall be provided as Common Open Space. This open space shall include the Resource Protection Area (RPA) parallel to the main body of Lake Chesdin. Trails, lake access, passive recreation, and similar improvements may be constructed in the Common Open Space in accordance with the Chesapeake Bay Protection Act. (P)

12. Transportation Contribution. The applicant, his successor(s), or assignee(s) (the "Applicant") shall pay the following to the County of Chesterfield:

A. Prior to recordation of the initial subdivision plat on the Property, the amount of \$1,007,395.

B. Prior to the recordation of a cumulative total of more than 113 lots on the Property, the amount of \$1,007,395.

C. Prior to issuance of each building permit on lots other than the 226 initially recorded lots on the Property, the amount of \$8,915 per dwelling unit. The initial 226 recorded lots referred to in this Proffer Condition shall be identified on the final check and recorded plats.

D. If the amounts above are paid after June 30, 2006, then each amount paid shall be adjusted upward by any Board of Supervisors' approved increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made. The payments shall be used for road improvements in accordance with the Board's cash proffer policy. These payments could be used towards road improvements at the intersection of Nash Road and River Road.

E. If, upon the mutual agreement of the Transportation Department and the Applicant, the Applicant provides road improvements (the "Improvements"), other than those road improvements identified in Proffered Condition 9, then the transportation contribution in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the Applicant shall pay the balance of the transportation contribution as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant shall receive prior written approval by the Transportation Department for any credit. (T, B&M)

13. Restrictive Covenants. The following restrictive covenants shall be recorded prior to, or in conjunction with, the recordation of any subdivision plat:

A. Motorized water craft access to Lake Chesdin from the Property shall be subject to the following restrictions:

(i) Access points shall be owned, operated, and maintained by a homeowner's association and be subject to restrictive covenants.

(ii) Motorized watercraft access shall be restricted to owners of homes within the Property, and not open to the general public.

(iii) To safeguard the water quality of Lake Chesdin as a drinking water source, access to the lake by gasoline powered craft shall be limited to those employing a 4-stroke engine(s) or a Direct Fuel Injected 2-stroke engine(s). Traditional carbureted or electronic fuel injected 2-stroke engines shall be prohibited. All gasoline powered craft shall be registered with the Developer or a homeowners association as the case may be.

B. Facilities for the sale of gasoline at any access point on Lake Chesdin shall be prohibited on the Property. (P)

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mrs. Humphrey then made a motion, seconded by Mr. Barber, for the Board to approve the request for waiver to street connectivity requirements in Case 05SN0284.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Mr. Miller and Mr. Warren excused themselves from the meeting.

06SN0165

In Midlothian Magisterial District, H. H. HUNT CORPORATION requests amendment to Conditional Use Planned Development (Case 05SN0243) and amendment of zoning district map relative to development standards. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for low density residential use of 1.01 to 2.0 units per acre. This request lies in a Residential (R-9) District on 5.6 acres fronting approximately 600 feet on the north line of North Woolridge Road approximately 1,600 feet west of Charter Colony Parkway. Tax ID 723-705-Part of 8818 (Sheet 5).

Mr. Clay presented a summary of Case 06SN0165 and stated the Planning Commission recommended approval and acceptance of the proffered condition, indicating that the use would not significantly impact the area. He further stated staff recommended denial, noting that the proposal represents an intensification of uses that do not comply with the Midlothian Area Community Plan.

Mr. Jim Theobald, representing the applicant, stated the Board already approved the inclusion of day care and bank uses for the site, but in incorporating the C-1 development standards and emerging growth standards, the applicant neglected to check with the day care user as to the appropriate size of their building. He noted the purpose of the amendment is to remove the square footage restriction for the day care and to ensure that the ATM machine at the bank can be used after hours.

Mr. King called for public comment.

No one came forward to speak to the request.

On motion of Mr. Barber, seconded by Mrs. Humphrey, the Board approved Case 06SN0165 and accepted the following proffered condition:

The property owner/applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffer that the property under consideration will be developed according to the following proffer if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner/applicant. In the event this request is denied or approved with conditions not agreed to by the owner/applicant, the proffer shall immediately be null and void and of no further force or effect.

The Textual Statement, dated January 23, 2006, shall be considered the Master Plan relative to permitted uses, architectural style, street lights along Woolridge Road, size of individual buildings, gross floor area per acre for child care and bank/offices and hours that uses may be open to the public. (P)

(STAFF NOTE: This condition supersedes Case 05SN0243, Textual Statement, DETAILED TRACT CONDITIONS, Tract 1, 2.)

Ayes: King, Barber and Humphrey.

Nays: None.

Absent: Miller and Warren.

Mr. King requested a ten-minute recess.

Reconvening:

Mr. Miller and Mr. Warren returned to the meeting.

06SN0191 (Amended)

In Midlothian and Matoaca Magisterial Districts, THE CHESTERFIELD COUNTY BOARD OF SUPERVISORS proposes rezoning and amendment of zoning district map from Agricultural (A) and Corporate Office (O-2) to General Industrial (I-2) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional employment center and neighborhood mixed use uses. This request lies on 786.4 acres fronting the north line of Midlothian Turnpike between Route 288 and Huguenot Springs Road; on the south line of Midlothian Turnpike between Route 288 and Old Hundred Road; and fronting the west line of Huguenot Springs Road, approximately 2,800 feet north of Midlothian Turnpike. Tax IDs 710-708-3025, 5217 and 9532; 712-709-9100; 712-710-2733, 8193 and 9557; 712-711-1562 and 2690; 712-712-2923; 713-708-4574; 713-712-Part of 8031; 714-707-6311 and 9182; 714-712-9323; 715-705-2469; 715-706-5039; 715-710-0250 and 8459; 715-711-0444 and 4043; 715-712-3508; 716-710-0846, 1325, 1707 and 2342; 716-713-Part of 5414; 717-708-Part of 2972; 717-711-0537 and 0707; 718-705-6022; 718-706-3636; 719-703-5024; 720-703-7536; and 720-704-Part of 3574 (Sheet 5).

Ms. Beverly Rogers presented a summary of Case 06SN0191 and stated the Planning Commission and staff recommended approval, indicating that the proposal conforms to the Route 288 Corridor Plan, which suggests that the property is appropriate for regional employment center uses consisting of Light Industrial (I-1) uses as well as General Industrial (I-2) uses, and further suggests that a lifestyle center/entertainment center is appropriate at the northwest quadrant of Route 288 and Midlothian Turnpike, under certain circumstances. She stated the Plan also suggests that property located at the intersection of Huguenot Springs and Dry Bridge Roads is appropriate for Neighborhood Commercial (C-2) uses. She further stated the Planning Commission's recommendation modified the proposal with additional conditions to ensure that the lifestyle center in the northwest quadrant of the intersection of Route 288 and Route 60 would be developed in accordance with recommendations of the Plan, that adequate transportation improvements would be provided, and that provisions would be made for sites for

future county emergency services to serve the growth resulting from this development. She reviewed the changes recommended by the Planning Commission: requiring that water quality basins be designed as amenities unless otherwise approved by the Planning Commission; dedicating five acres for a rail station site and eight acres for an emergency services station site; requiring that the site plans for the lifestyle center be considered by the Planning Commission; limiting development to 300,000 square feet outside the main street area until 175,000 square feet of THE Main Street area has substantially completed foundations and slabs; and requires that the initial uses on Main Street include three restaurants, a movie or other entertainment use, a bookstore, and a unique use which is not currently located within the county's boundaries. She noted the County Attorney has advised that the Planning Commission's suggested requirement for initial uses is not appropriate because state law does not allow the county to dictate through zoning the brand of business that will locate at a particular location or otherwise control market decisions through zoning. She continued to review changes recommended by the Planning Commission, including provision of documentation to the Economic Development Department that assures occupancy of the initial Main Street users within 18 months of the submission; establishing a 30,000 square foot maximum on individual users, but permitting increases up to 100,000 square feet, provided that the additional square footage not be counted toward the minimum square footages within the Main Street area; requiring that the Planning Commission approve the traffic study and after analyzing the study, determining whether or not additional road improvements should be required or the density reduced to accommodate the traffic; requiring a fly-over from Watkins Center Parkway to Route 288 unless the traffic study determines that the fly-over is not required; requiring widening of Watkins Center Parkway from Route 60 south to Route 288 so that the southwestern corner of Route 288 and Route 60 would be better prepared to accommodate employment center uses in the immediate future; stating that the Route 288 fly-over and the northern Route 288 on and off ramps off of Route 288 and Watkins Center Parkway would not be eligible for Community Development Authority (CDA) funding and therefore, the cost of construction would be borne by the developer.

In response to Mr. Miller's question, Mr. McCracken stated staff feels the original application, as amended, will protect the county's ability to deal with transportation improvements required of the developer. He expressed disappointment that staff has reached an impasse on certain aspects of the transportation plan with the developer, and he does not foresee being able to reach an agreement on some of the issues. He stated the Planning Commission will have to make a decision between the developer's and staff's positions with respect to transportation issues. He further stated, under the conditions in the current application, staff could request modifications, indicating that some of the modifications have already been discussed with the developer and the developer does not agree with one of the first modifications that staff felt was necessary. He stated, although conditions are in place in the amended application, there is going to be a disagreement on those conditions.

Mr. Ramsey stated it is his understanding that, if the developer disagrees with staff's determination after analyzing the traffic study, he must seek relief from the Planning Commission.

In response to Mr. Barber's question, Mr. McCracken stated the amended application and the Planning Commission's recommendation are basically the same, but it would be easier for staff to employ the Planning Commission's recommendation, which outlines the transportation requirements but allows staff to provide relief should the traffic study indicate it appropriate.

Mr. Barber stated he believes it would be an unfair burden on staff for the Board to approve the request with minimal transportation conditions, as opposed to the more comprehensive conditions suggested by the Planning Commission.

In response to Mr. Miller's question, Mr. McCracken stated the conditions of the application allow staff to make transportation adjustments, indicating that he already foresees a necessary modification in access to the proposed mall, but the developer has indicated it is not acceptable, even though the conditions authorize staff to request the modification. He expressed concerns that the transportation issues have not been resolved. He stated, at some point, a decision will have to be made that economic development opportunities outweigh traffic issues, indicating that he does not believe the county should have to make that choice.

Mr. Miller stated he had hoped the issues would have been resolved by now.

Mr. John Easter, representing the applicant, stated from a general standpoint, the conditions clearly provide staff with the authority to insist on road requirements to make the proposed development work, indicating that there may be different ways to resolve the traffic issues. He stated, at this point, it would be wise to determine the traffic details during the site plan process. He further stated there will be many options to address the traffic issues once the traffic study is available. He stated the developer is comfortable with waiting until the site plan process to address the traffic issues. He further stated, although the Planning Commission recommended the addition of some road improvements to the application's list, the process for resolving the traffic issues is through the traffic study.

Mr. Barber stated essentially the Planning Commission's recommendation adds road improvements that could be subtracted based on the traffic study, and the amended application would allow for the addition of road improvements based on the traffic study.

Mr. Easter stated he understands the developer's concerns with the Planning Commission's recommendation for an additional \$20 million in road improvements that was not in the original application.

Mr. Barber stated staff should be equally concerned that, if the additional road improvements suggested by the Planning

Commission become necessary, they might be difficult to achieve.

Mr. Easter stated the county will make the final decision with respect to road improvements. He clarified that he was retained to represent the county to bring forward the zoning request for economic development purposes. He called forward Ms. Faith McClintic, Assistant Director of Economic Development, to discuss the economic development benefit of the proposed development.

Ms. McClintic provided details of economic development requirements and impediments in the county. She stated the proposed development will address some of the county's ongoing economic development obstacles by improving the selection of ready-to-go sites; offering prospective businesses enhanced highway access; providing support services and restaurants for employees in the area; and establishing a visible and aesthetically pleasing environment. She stated the primary benefits of the rezoning are to enhance the county's ability to generate/recapture additional sales tax revenue; improve the county's competitive position; increase the commercial and industrial tax base; and add additional employment opportunities for residents. She further stated staff's vision for the development is a Chesterfield version of Henrico County's Innsbrook development. She stated the lifestyle center, which will be the first phase of the proposed development, will be the impetus for making staff's vision a reality and will also provide for the first wave of capital investment in this area, which is estimated at \$127 million. She noted the potential economic impact of the rezoning is estimated at more than \$11 million in annual revenue.

Discussion ensued relative to retail sales lost to neighboring localities in various categories.

Mr. Ramsey stated, although Chesterfield has a larger population, Henrico represents 40 percent of overall retail sales and Chesterfield represents approximately 30 percent, indicating that sales are being exported out of Chesterfield to Henrico.

Mr. Barber stated he believes that the more uniqueness that is built into this zoning case, the more opportunity there will be to capture dollars that are being spent elsewhere.

Mr. Miller stated, if the project were to be approved, he does not believe it would harm the county in any way, and he does not necessarily agree with the argument that sales will be transferred from one shopping center within the county to this development.

Mr. Barber stated, in staff's calculations on the potential for a Community Development Authority (CDA), the approach was taken that only sales tax generated here would be new dollars, so we are looking at a significant shift in spending from established stores today to stores that might be enveloped here.

In response to Mr. Miller's question, Mr. Barber stated a different market, as well as people from other localities, would be attracted if uniqueness exists in the development.

Mr. Easter stated the request, as filed, complies with the Route 288 Corridor Plan, which permits a regional employment center, a small commercial node near Dry Bridge and Huguenot Springs Roads, and a regional scale high fashion mall or lifestyle entertainment center. He further stated, according to the Plan, the lifestyle center does not include high end, high fashion stores, but creates a format different from a typical regional mall by including well designed causes and common areas. He stated examples of lifestyle centers are listed in the Plan, indicating that language in the zoning case requires design elements from two of the projects listed. He provided details of design requirements included in the application for Main Street in the lifestyle center, indicating that adding the additional conditions recommended by the Planning Commission could make the project unfeasible. He stated the developer has agreed to provide a minimum 300,000 square foot Main Street area; to bring the Main Street area up to rough grade before certificates of occupancy can be issued for more than 400,000 square feet in the other retail area; provide assurances that 100,000 square feet in the Main Street area will be available within 18 months of the other retail area reaching 400,000 square feet, and include at least three sit-down restaurants, and commercially reasonable efforts made to obtain a movie theater and a bookstore. He further stated the last aspect of the recommendations of the Plan, a high fashion mall or a lifestyle center, should be integrated with the regional employment center, complementing it rather than overwhelming it.

Mr. Barber stated the retail development allows utilities to be brought under Midlothian Turnpike, to the south part of Midlothian. He further stated it appears to him that the lifestyle center will be overwhelming because all that can be developed on the south side of Midlothian in the foreseeable future is 133 acres. He stated the wastewater lines to serve the majority of the south side of Midlothian Turnpike is 3.5 to 4 miles away.

Mr. Easter stated the language of the Plan states that the lifestyle center should not overwhelm the entire employment center district, which includes much more property than just the 786 acres included in this zoning request.

In response to Mr. Miller's question, Mr. Easter stated the lifestyle center is being integrated through overall design guidelines, specific requirements for the retail area, and the access requirements.

Mr. Barber stated it is his recollection that, during the public meeting process, integration did not mean having another mall, but a mixture of uses. He expressed concerns that employees in the regional employment center will not be able to walk to restaurants at the lifestyle center, and he does not believe the development was supposed to be a mass of retail standing alone without other components mixed in.

Mr. Miller stated he, too, was under the assumption that employees in the regional employment center would have the opportunity to easily access the lifestyle center.

Mr. Easter stated, although Mr. Barber's and Mr. Miller's assumptions of the definition of integration are reasonable, the reality is that it is impossible to integrate development across 8 lanes of Midlothian Turnpike.

Mr. Barber stated if you place a percentage of the uses in each of the quadrants, then employees would not have to cross Midlothian Turnpike to get to commercial services.

Mr. Easter reviewed the uses projected for the property, including approximately 4 million square feet of office/light industrial; 1.1 million square feet for a lifestyle center; and approximately 600,000 square feet of neighborhood retail. He stated he does not believe the lifestyle center overwhelms the office/light industrial uses. He provided details of the substantial road improvements required by the application, as amended.

There was brief discussion relative to the cost of the Planning Commission's recommendation for additional road improvements.

In response to Mr. Barber's question, Mr. Easter stated, if the traffic study determines that the additional road improvements are necessary, Transportation staff will determine what improvements need to be done to make the development workable. He further stated the developer must post a bond for road improvements prior to the issuance of the first building permit, and the improvements must be constructed prior to issuance of the certificate of occupancy for any portion of the lifestyle center.

Discussion ensued relative to the potential for road improvement funding through a Community Development Authority.

Mr. Easter indicated the Planning Commission's additional recommendations would render the development unfeasible.

Mr. Miller stated he has always had an issue with the county dictating what tenants could utilize a project. He further stated he does not understand why there cannot be a menu of potential users for the developer to select from.

In response to Mr. Miller's question, Mr. Easter stated the application includes a requirement that only 40,000 square feet of any building in Main Street can be counted toward the overall square footage requirement for the Main Street area, regardless of the size of the building.

Mr. King referenced the "free enterprise system," and expressed concerns relative to dictating various uses for the Main Street.

Mr. Miller stated his biggest concern is traffic, and he is looking for further assurance that he understands Mr. McCracken's position relative to transportation issues.

Discussion ensued relative to the first phase of Main Street development.

Mr. Barber expressed concerns that what has been presented to the public at community meetings may not be what is

delivered. He stated the community has been promised phasing with certain guarantees.

Mr. Miller inquired what would happen if the developer were to present alternate uses that were never presented to the public.

Mr. Barber stated the Planning Commission's condition is actually more flexible than what has been presented to the public because it requires a movie theater or some other type of entertainment venue.

Mr. King called for public comment.

Mr. John Cogbill, representing certain owners and prospective developers as well as himself as a resident of the county, stated he believes this is one of the most important cases the county has ever considered. He further stated the majority of the project is for employment center uses and expressed concerns that so much focus has been placed on the lifestyle center, which is only one small component of the development. He stated the developer is willing to provide the infrastructure at no cost to the county and make this project happen without delay. He further stated the proposal represents an economic engine for the county, with a first-class office park at the last best interchange in the Richmond metropolitan area. He stated the office park will not evolve unless, and until, the lifestyle center is built. He noted there is already a user for 30,000 square feet on the south side of Midlothian Turnpike awaiting for the outcome of this request. He expressed concerns that Chesterfield County sales tax dollars are being exported to other localities, especially Henrico. He stated the Board has a chance to do something right and provide an opportunity for the county to succeed. He expressed concerns relative to decreased sales tax revenue and the percentage of sales tax distribution to Chesterfield versus the region. He stated, if the sales tax figure can grow, the Board could provide relief to citizens from increased assessments by lowering the real estate tax rate. He further stated the proposed development is ready to go and mixes all of the necessary uses to develop the office park sooner rather than later. He stated the project is uniquely designed and pedestrian friendly. He stated the developers will do what they promised regardless of the proffers and design standards that have been incorporated into the case. He further stated transportation decisions will be made at the appropriate time.

In response to Mr. Miller's question, Mr. Cogbill stated both the developer and Mr. McCracken agree with the amended transportation conditions, as amended by Mr. Easter. He further stated he fully anticipates the transportation issues will be resolved between the Transportation Department and the developer. He stated the developer is not in a position to accept the Planning Commission's recommendation.

In response to Mr. King's question, Mr. Cogbill stated imposition of the Planning Commission's recommended changes would render the project unfeasible.

Discussion ensued relative to the requirements relating to the protection of Swift Creek Reservoir.

Mr. Cogbill stated the developer agrees with Mr. Tom Pakurar that private business can do as good or better job than government in addressing environmental issues.

Mr. Tom Pakurar, a resident of the Clover Hill District, expressed concerns relative to the impact of the development on Swift Creek Reservoir. He noted the rejection of the county's Regional BMP Master Plan by the Environmental Protection Agency. He recognized the superiority of the private sector in achieving water quality goals and suggested modification to the textual statement to allow the developer to meet the state standards for phosphorous runoff.

In response to Mr. Miller's question, Mr. Pakurar stated no progress has been made on the Regional BMP Master Plan since the first county BMP was put forth in 2000.

Mr. Miller expressed concerns relative to the efforts put forth to adopt a regional BMP plan, and it now appears that the rejection of the Plan by EPA will result in developers being required to address phosphorous runoff limitations within their own properties.

Mr. Warren restated Mr. Pakurar's suggested wording: "We will manage our own storm water and comply with state standards." He stated he agrees with the philosophy of Mr. Pakurar's language.

Mr. Steve Erie, representing the Chesterfield Business Council, stated he supports the development because of new jobs, wealth and opportunities it will bring to the county.

Dr. Betty Hunter-Clapp, a resident of the Clover Hill District, stated the project will be a great asset to the county and hopes the Board will move the project forward. She requested that the county make a serious effort to provide citizens with information relative to zoning cases such as this in a more timely manner.

In response to Mr. Warren's question, Dr. Hunter-Clapp stated she agrees with Mr. Pakurar's suggestion for dealing with phosphorous runoff.

Mr. John Smith, representing Hospital Corporation of America (HCA), stated HCA fully supports the development and recognizes the project's economic potential.

Mr. Tim Bass, a resident of Salisbury and immediate past president of the Salisbury Homeowners Association, stated the developers had been very open and consistent when presenting information to Salisbury residents. He further stated he has received only positive comments about the proposal, which will complement area residents' lifestyle. He requested that the Board not impose too many restrictions resulting in failure of the project.

Mr. Conway Haskins, a resident of the Matoaca District and representative of the Task Force for Responsible Growth, expressed support for any zoning measures that would meet the goal of achieving a mixed-use development that balances residential, commercial and retail elements. He stated the project fosters economic opportunities and addresses

citizens' concerns regarding sprawl and infrastructure impacts. He encouraged the Board to move forward with the rezoning.

Mr. Art Heinz, President of the Chesterfield County Chamber Commerce, stated the chamber supports the proposal as amended. He further stated the project represents good economic development and hopes the Board will move forward.

Mr. King thanked Mr. Heinz for the unprecedented gesture earlier today on behalf of members of the Chesterfield County Chamber of Commerce, in support of the county government and the County Administrator.

Mr. King inquired whether anyone in the audience objected to delaying the public hearing to consider amendments to the Procedures of the Board of Supervisors relative to citizen comment.

Mr. Ramsey stated a member of the audience indicated there are several interested people who must leave, and they requested that the Board consider delaying the public hearing.

Mr. Barber suggested that the Board open the public hearing and then continue it to the next meeting.

In response to Mr. King, Ms. Brenda Stewart objected to delaying the public hearing.

Mr. King stated, therefore, the public hearing would be held at the end of the agenda.

Mr. Jim Theobald, representing Trammell Crowe Mid-Atlantic, contract purchaser of Tract C, indicated the intent to develop that property for a community level shopping center. He requested modifications to allow commercial use on the entire tract with no requirement for office uses within the development of that tract since transition would be made on the adjacent properties. He further requested that the Board amend the textual statement to delete the requirement for an office transition, allow a home improvement center to be located in the tract, and eliminate the 70,000 square foot limitation on individual users. He stated it does not make sense to exclude a home improvement center at this location. He requested that the Board view Tract C as a grocery-anchored, home improvement, community-level center where residents can stop for daily needs.

In response to Mr. Warren's question, Mr. Theobald stated he supports the application as presented subject to the revisions he requested for Tract C.

Ms. Marleen Durfee, representing the Task Force for Responsible Growth, stated Chesterfield Towne Center does not have the same conditions that ultimately led to the demise of Cloverleaf Mall. She further stated the development will offer a different type of shopping atmosphere than the Towne Center. She stated nobody thought Innsbrook would have evolved as it has today, and the county must allow this project to have the same opportunity and should not micromanage it to the point where it fails. She further

stated she believes the process will allow the county to achieve the development it desires.

Mr. Mark Slusher stated he believes it important that uses be integrated into projects. He encouraged the Board to maintain the requirement for office use within the Trammell Crowe parcel.

Dr. Mike Harton, a resident of the Midlothian District, stated he has attended all of the community and Planning Commission meetings regarding this proposal. He further stated the county has had multiple opportunities to stem the flow of residents working north of the river. He stated the county should not micromanage the project. He requested the Board's approval of the project.

There being no one else to speak to the request, the public hearing was closed.

In response to Mr. King's question, Ms. Rogers stated a zoning application is pending on the property referenced by Mr. Theobold, Tract C, which was filed prior to this case. She further stated staff has always taken the position that the Route 288 Plan suggests that Tract C be developed as neighborhood retail uses provided they are integrated with other designated uses and avoid typical strip commercial characteristics. She stated staff has taken the position that, to meet that requirement, the applicant must limit the size of uses, assure that the development is not of a strip style, and provides a transition on the edge so as to integrate office and commercial uses. She further stated the proposal submitted by Mr. Theobold would allow a community-scale shopping center, which is not supported by the Plan. She stated a reduction in the setback along Watkins Center Parkway has been requested, and staff has supported that reduction in return for urban design of the out-parcels, noting that Mr. Theobold is requesting to delete this element. She stated Mr. Theobold's proposal does not comply with the adopted Plan.

Mr. Easter stated he believes the current language for Tract C is consistent with the Plan and he does not believe the Board should honor Mr. Theobold's request.

In response to Mr. Warren's question, Mr. Easter stated the amended suggested by Mr. Pakurar is acceptable by both the county and the developer.

Mr. Barber stated it is the Board's responsibility to insure in writing exactly what they want to see on this property. He expressed serious concerns relative to not having a transportation plan. He stated it is very important that the proposed development be unique and not duplicate Chesterfield Towne Center. He expressed concerns that the proposal represents separate quadrants of uses that are not integrated to the extent that the public expected when the Route 288 Corridor Plan was adopted. He stated if there were assurances that Nordstrom or a similar use were guaranteed locating on Main Street, this would be a much easier decision. He expressed concerns relative to Mr. Theobold's request which would allow strip commercial development along Midlothian Turnpike. He requested that the Board consider prohibiting strip commercial. He stated he supports the

conditions recommended by the Planning Commission, noting that the text of the application relative to Main Street is not what has been presented to the public. He further stated his vision of a lifestyle center would not include a home improvement store. He stated he is not convinced that the county has in writing the assurances that a very nice development will be provided. He further stated the level of trust that is being given to the developer with the current proposal could change tomorrow, indicating there needs to be more in writing relative to the road network, if nothing else. He expressed concerns that the developer has already indicated he is not interested in providing the road network suggested by Mr. McCracken.

Mr. Warren stated he supports the case as presented by staff and does not support the additional conditions recommended by the Planning Commission. He further stated he does want to include the amended environmental language suggested by Mr. Pakurar.

In response to Mr. Miller's question, Mr. McCracken stated he is comfortable recommending approval of Mr. Easter's application, as amended.

Mr. Miller expressed concerns that the Board is being asked to make a decision so soon after the Planning Commission's recommendation. He stated he does not like to get involved in micromanaging uses within a development, but understands that the lifestyle center has to be the leader and needs to be unique. He further stated he will support the request, with the amended environmental language suggested by Mr. Pakurar.

Mrs. Humphrey stated she supports staff's position relative to Mr. Theobold's request. She expressed concerns relative to Dr. Harton's assumption that the county has not acted responsibly, indicating that the Board has had continuous discussions regarding the development of this area for many years. She stated she supports the request.

Mr. King commended Mr. Easter on his presentation. He stated one of the reasons he is able to support this request is because it is a county business issue rather than a district issue. He further stated he does not understand why this case has been so complicated. He stated he serves on the Gateway Region Board and has grown to understand what happens to those who do not have infrastructure in place.

In response to Mr. Barber's question, Mr. Easter stated, at some point, the application included a rail station site, but not a fire station site.

Ms. Rogers stated, based on advice from the County Attorney's office, if the Board were to impose conditions for rail and fire station sites, it must be determined that the proposed development gives rise to the need for those facilities. She noted the Public Facilities Plan does identify a need for a fire station within the boundaries of the Route 288 Corridor Plan, but the boundaries are much greater than this case. She stated staff has not analyzed whether or not the proposed development gives rise to the need for rail or fire station facilities. She further stated, as the application was developed, there were discussions as to the best location for

a fire station, and the Fire Department has indicated that the best site might be near the intersection of Dry Bridge and Old Hundred Roads, on the fringe between emerging residential development and the regional employment center.

Mr. Micas stated the questions is whether the development by itself must generate the need for either a rail station or a fire station, not whether the Plan calls for it at some point in this region. He further stated the case is not structured to deal with proffered conditions at this point. He stated the Board could add conditions for the dedication of a rail site or a fire station site to the requirements of the Textual Statement only if it has been determined that this development generates the need for either of these sites.

In response to Mr. Barber's question, Mr. Easter stated he does not think the county generally looks for dedication of sites such as part of commercial or office zoning cases. He further stated the Watkins family has indicated their willingness to make a donation of land. He stated, if the county were to require the dedication of property as part of this zoning case, the property owner would not receive the tax credits.

Mr. Barber made a motion for the Board to approve Case 06SN0191 as amended by Mr. Easter last Friday, with the addition of the Planning Commission's suggested conditions relative to transportation.

Mr. Barber's motion died for lack of a second.

Mr. King made a motion for the Board to approve Case 06SN0191 as amended by Mr. Easter on Friday, with the amended environmental language suggested by Mr. Pakurar.

Mrs. Humphrey seconded Mr. King's motion. She clarified that the most recent amendment presented by Mr. Easter allows Transportation staff to determine transportation issues prior to the Planning Commission.

Mr. Warren clarified that, with Mr. Pakurar's suggestion, the language in Section IV.B. relative to environmental issues would be deleted, and replaced with, "For those portions of the property that drain southward into Swift Creek Reservoir, the developer will manage its own storm water and comply with state standards to achieve the .45 phosphorous standard."

In response to Board member's concerns, Mr. McElfish stated the Chesapeake Bay Ordinance will apply to the portion of the property that drains north to Michaux Creek.

Mr. Barber stated he will not support Mr. King's motion.

Mr. King called for a vote on his motion, seconded by Mrs. Humphrey, for the Board to approve Case 06SN0191, with the amended language in the Textual Statement regarding storm water management, subject to the following condition:

The Textual Statement dated January 20, 2006, as revised February 17, 2006, and as amended by the Board on February 22, 2006, shall be considered the Master Plan. (P)

Ayes: King, Miller, Humphrey and Warren.

Nays: Barber.

Mr. King called for a ten-minute recess.

Reconvening:

Mrs. Humphrey made a motion, seconded by Mr. Barber, for the Board to suspend its rules at this time to allow for consideration of an agenda item after 11:00 p.m.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

16. PUBLIC HEARINGS

O TO CONSIDER AMENDMENTS TO THE 2006 PROCEDURES OF THE BOARD OF SUPERVISORS TO PROVIDE FOR A CITIZEN COMMENT PERIOD AT BOARD MEETINGS

Mr. Ramsey stated this date and time has been advertised for a public hearing for the Board to consider amendments to the 2006 Procedures of the Board of Supervisors to provide for a citizen comment period at Board meetings. He further stated the proposed revisions will create a 30-minute citizen comment period at the evening portion of the meeting for people to speak on any matter relating to county services, policies and affairs. He stated, under the recommendation, each speaker will be limited to five minutes, must sign up to speak prior to 5:00 p.m. on the day before the meeting, and staff will not try to determine what is an administrative matter to allow or not allow citizens to speak.

Mr. King stated, due to the lateness of the hour, the public hearing will remain open until the Board's next meeting.

Mr. King called for public comment.

Mr. Jim Slaughenhaupt, a Clover Hill District resident, expressed concerns relative to placing too many restrictions on speakers. He requested that the public comment time not be placed at the end of the Board's agenda and suggested that the Board consider scheduling meetings just for listening to public comment.

Mr. Barber advised Mr. Slaughenhaupt that a more effective way of communicating would be to contact his supervisor directly rather than attending a public comment session.

Mr. Warren thanked Mr. Slaughenhaupt for his suggestions. He stated he agrees with Mr. Slaughenhaupt that it is very important for public officials to be good listeners and not to take things personally.

Mr. King stated citizens may personally attack his public life performance, but he does not believe they should be allowed to impugn his personal integrity.

Ms. Brenda Stewart stated many citizens would prefer more community meetings with open dialogs to appearing on television. She thanked the Board for considering changes to

their procedures and applauded the proposal to remove some of the restrictions on citizens' Freedom of Speech. She encouraged the Board to make additional changes, as follows: provide for a citizen comment period in the afternoon session as well for citizens whose schedules do not allow them to attend in the evening; if time is remaining in a citizen comment period after all scheduled speakers have completed their remarks, ask if anyone in the audience would like to speak and impose the same limitations as the previous speakers; consider deleting the requirement for the speaker to provide the topic; and consider having a sign up sheet at the public meeting room prior to the meeting to permit citizens to sign up at the meeting at which they desire to speak. She suggested that the Board coordinate with School Board and the Planning Commission to standardize the policy on citizen participation at public hearings and during open comment period. She also suggested that the Board consider scheduling public input on specific cases prior to the meeting at which the Board plans to make its decision on the case. She expressed concerns relative to the inconsistent application of rules to individual speakers, indicating that some speakers are allowed to stray off topic and speak much longer than the allotted time with no attempts by the official in charge of the meeting to exert control, while others are much more closely monitored and challenged.

Mr. Barber stated typically community meetings are held in the neighborhoods of upcoming zoning cases, which allows citizens to provide input. He further stated, if the Chairman places a time limitation on public comment during certain public hearings, the Clerk keeps the time and tells the citizens when their time is up. He inquired whether Ms. Stewart thinks a warning light system would be appropriate.

Ms. Stewart stated a warning signal would be appropriate to remind speakers to stay on topic and finish their comments.

Mr. Barber stated he likes Ms. Stewart's suggestion for a public comment time during the afternoon session, as well as the standardization of speaking policies among the Board of Supervisors, Planning Commission and School Board.

Mrs. Humphrey stated she likes Ms. Stewart's suggestion for both an afternoon and evening citizen comment period.

Mr. Miller stated the Board has been criticized in the past for closing public comment and then making a decision at a later meeting. He further stated he has no problems with allowing a public comment session during the afternoon if it can be worked into the Board's agenda. He referenced an elderly couple who had difficulty expressing themselves when he was a member of the Planning Commission, and stated it is sometimes very difficult to get speakers to stay on the subject and move on.

Mr. Warren stated he does not recall speakers going over time limits during public hearings because the clerk would notify them their time was up, which worked well because elected officials were not dominating the speakers.

No one else came forward to speak to the issue.

Mr. King stated the public hearing will be left open until the March 8, 2006 Board of Supervisors meeting.

17. REMAINING MOBILE HOME PERMITS AND ZONING REQUESTS

There were no remaining mobile home permits or zoning requests at this time.

18. ADJOURNMENT

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board adjourned at 2:42 a.m. until February 23, 2006 at 6:00 p.m. for a meeting with the county's Legislative Delegation at the Downtown Club.

Ayes: King, Miller, Barber, Humphrey and Warren.

Nays: None.

Lane B. Ramsey
County Administrator

R. M. "Dickie" King, Jr.
Chairman